*Tithes too hot to be Touched.*

Certain TREATISES, wherein is ſhewen that

# Tithes are Due.

*By the law of* { *Nature,* / *Scripture,* / *Nations,* } { *therefore* / *neither* } { *Jewiſh,* / *Popiſh,* / *Inconvenient.* } or

Written by

Sr. *HENRY SPELMAN*

Knight, and others.

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*With an Alphabeticall Table.*

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MAL. iii. 10. & 12.

*Bring ye all the Tithes into the ſtore-houſe, that there may be me*
*mine houſe; and prove me now herewith, ſaith the Lord of H*
*Will not open you the windows of Heaven, and poure you ou*
*that there ſhall not be room enough to receive it.*

ROM. ii. 22.

*Thou that abhorreſt idols, doſt thou c*

---

*LOND*

Printed for *Philemon Ste*
*Pauls*

BRITISH MUSEUM

The names of the ſeverall *Treatiſes* are theſe,

1. The Larger Book of Tithes.
2. An Apologie of the Treatiſe, *De non temerandis Eccleſiis.*
3. An Epiſtle to Mr. *Richard Carew* concerning Tithes.
4. A Tteatiſe of Impropriations by Sr. *Francis Bigot* Knight of *Yorkſhire.*
5. An Epiſtle to the Church of *Scotland*, prefixed to the ſecond edition of the firſt Treatiſe printed at *Edenburgh.*
6. A Reſolution of a doubt touching the alienation of Tithes.

# *To the Enemies of*

# TITHES.

BOoks are not written for ſuch as making their Will and their Power the meaſure of their actions, eſteeme nothing unlawfull but what is unpoſſible, but for thoſe that deſire to act as rational Creatures, and will ſuffer themſelves to be led by Religion and Reaſon: And ſuch, I doubt not, there be many even amongſt thoſe which now finde fault with the Miniſters portion; Men that drive not on their deſignes for private ends, but conceiving Tithes to be either Jewiſh, Antichriſtian or Inconvenient, think they ſhall do God and the Church good ſervice by ſeeking the aboliſhment of this, and the eſtabliſhment of ſome other maintenance for the Miniſter. Let theſe conſider that our Saviour foretold his Diſciples, that *the time would come, that whoſoever ſhould kill them, would think they did God ſervice*, John 16. 2. and learn thence that it is poſſible for them alſo to be miſtaken in their preſent opinion: and therefore before they proceed any further let them take but this Book in hand and peruſe it well without paſſion or prejudice, and I am confident that they will find their objections anſwered, their judgements rectified, and their reſolutions turned the other way, and as David bleſſed God for ſending Abigail to cool his rage, and keep him from his revengefull purpoſe, ſo they will bleſſe him for this worthy Knight that

ſo happily met them in their Carreire, and ſtopped them from running into that which I know they abhorre, the guilt, at leaſt the ſuſpicion of Sacriledge. Such effects ( as ye ſhall * read ) his learned works have wrought already, yea farre greater: For it is harder to perſwade men to reſtore what they actually poſſeſs, then to forbear ſeeking what they never had. Let thoſe that preferr a good Conſcience before a great eſtate, reade alſo that moſt judicious piece of Sr. *Henry Spelman*, which hath here an Apologie, though indeed it needed none, *De non temerandis Eccleſiis*. God in mercy bleſſe theſe and the labours of other his ſervants, for the maintenance of his Church, and the advancement of his glory.

* Epiſt. to the Reader p. 21.

*Reader*,

THat the Table may be more readily uſed, write the the number of every page of the Prefaee with thy pen, it being omitted by the Author: which is likewiſe to be done in Sr. *Henry Spelmans* Apology; His Epiſtle to Mr. *Carew*, Sr. *Francis Bigot's* Epiſtle to King *Henry* the Eighth, and and the Epiſtle of Mr. *Knox*.

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A Table

A Table of the Principall matters contained in the enſuing Tracts, wherein *St.* ſignifieth Mr. Stephens Preface; *Sp.* Sr. Henry Spelmans Treatiſe; *Ap.* his Apologie; *Ep.* his Epiſtle to Mr. Carew; *B.* Sr. Francis Bigod's Preface to Henry the eighth; *Sc.* The Epiſtles to the Scottiſh Clergy; *R.* The Reſolution of a doubt concerning the alienation of Tithes; *Introd.* Sr. H. Spelmans Introduction.


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A Catalogue of other printed Books of Sr. *Henry Spelmans*, which are to be ſold by *Philemon Stephens* at the gilded Lion in *Pauls* Church-yard.

1. *CConcilia, Decretà, Leges, Conſtitutiones de Re Eccleſiarum Orbis Britannici, ab initio Chriſtianæ ibidem Religionis; cum Annotationibus non minus piis quam doctis: Opus Antiquitatis ſtudioſis apprime gratum & utile.*

2. *Gloſſarium eruditiſsimum: in quo priſci Ritus quamplurimi, Magiſtratus, Dignitates, Munera, Officia, Mores, Leges, & Conſuetudines enarrantur.*

3. *Pſalterium Davidis Latino-Saxonicum, à Fo. Spelmanno, Henrici F. è Patus Bibliotheca in lucem editum: ubi ad finem uniuſcujuſque Pſalmi preces optimæ in animum Pſalmi reperiuntur.*

4. *De non temerandis Eccleſiis*, or, Of the right and reſpect due unto Churches, which are not to be violated.

5. *De Sepultura.*

# TO
# THE VVORSHIPFVLL
## My much Honoured friends, *John Crew* Eſquire, and *Richard Knightley* Eſquire, worthy Patriots of our Country *Northampton-Shire.*

*I Addreſſe unto you both, theſe ſeverall Treatiſes, not onely out of daty and obligations to your ſelves, but in regard of your publike good affection to maintain the patrimony of the Church in Tithes, which is ſo fundamentally ſetled by our Laws, that nothing can be more certain by them. And the times now growing dangerous to the whole ſtate of the Clergy in this particular, your ſelves having declared your opinions for Tithes, and accordingly been careful to preſerve us in our rights, I hope this my ſervice will be acceptable to you: what farther may be done depends upon Gods providence, and the good endeavours of all pious men to afford their beſt aſſiſtance. Seeing the Parliament hath honourably declared themſelves for Tithes, both by their Ordinance and the repulſe given to ſome Petitioners againſt them. For mine own part, though I expect cenſure and oppoſition from many, yet as an Ancient ſaid,* In cauſa qua Deo placere cupio, homines non formido. *I have therefore in this needfull time, at the earneſt requeſt of many, adventured the rather to diſcharge the truſt repoſed in me by the worthy Knight Sir* Hen. Sp. *who being imployed in greater works, committed theſe to my care & truſt to be publiſhed. His charge*

*doth neerly concern me, and in conſcience I could not longer conceal them from the publique view. They have been long in my cuſtody; and if the favour of your ſelf M.* Crew, *in a time of danger, beſides M.* Knightleys *publique deſerts and defence of me ſince from ſcandalous people, had not prevented, they had been utterly loſt by the injury of ſoldiers, together with other Manuſcripts and Monuments of great conſequence againſt the common adverſary. Your ſelves having preſerved them and me, I could not doe otherwiſe then return you the thanks and fruit of your own favours; and whoſoever ſhall think theſe worthy the publique view, will have the like cauſe to render you thanks for ſaving both them and my ſelf, being extreamly injured by ſome that are ſtyled in our ancient Laws,* Villani, Cocſeti, Perdingi, viles & inopes perſonæ; *by whoſe troubles I am inforced to omit divers additions materiall to this argument, which the learned Knight committed to me. But leſt hereafter they ſhould miſcarry by any common danger, or neglect of mine, I could find no better means to prevent the ſame, then by committing theſe to the Preſſe, that they may live & be extant for the common benefit of Gods cauſe and Church. The piety, excellent learning and moderation of the Author, in all his expreſſions, will prevail much with thoſe that are truly wiſe and ſober, and if your protection ſhall concur to defend both them and my poor ſtudies, I ſhall hope to give you farther account hereafter in other works of great moment. Thus praying God to guide and bleſſe you in all your pious endeavours, I ſubſcribe my ſelf,*

Ll. H. 1. c. 29.

Yours ever obliged,

Jer: Stephens.

# To the READER.

*THE eminent worth and dignity of this religious Knight needs not to be ſet forth by the praiſe or pen of any man; his excellent learning, piety, and wiſdome, were very well known to the beſt living in his time; and his owne works publiſhed in his life, together with the great applauſe conferred on them, both at home and in forain parts by learned noble Parſonages, and great Princes, are teſtimonies beyond all deniall, or exception. Among all other his ſingular deſerts and works, there is none more illuſtrious, then his piety towards God, teſtified both in his holy courſe of life, and eſpecially by his learned and godly Treatiſes, of the* Rights and Reſpect due to Churches. *Wherein he hath ſo accuratly proved, what is due to God, and to be rendred unto him, both for the time of his worſhip, and alſo for the means and places, wherein his worſhip is to be performed, that no true Chriſtian, who embraceth the Goſpel, but muſt acknowledge willingly his ſingular deſerts and piety: His great knowledge in the Common Law of our Kingdome, and all other Laws whatſoever, divine or humane, ancient or modern, Civill or Canonicall,*

——Multa tenens antiqua, ſepulta, vetuſta, *Ennius.*
Quæ faciunt mores veteresque novoſque tenentem,

*renders him ſingularly judicious above many other, and able to deliver the truth when he deſcends to ſpeak of humane*

*laws and authorities, after he had first founded and ſetled his opinion upon the divine Law of God. Yet notwithſtanding his piety, learning, and moderation in all his expreſſions, there wanted not a perverſe ſpirit to oppoſe and ſcribble ſomething againſt him, whereof hee tooke notice, and added a cenſure in his learned work the Gloſſary; and alſo among other his papers of this argument, he hath left a ſufficient apology and juſtification of his former Treatiſe, which is here publiſhed for ſatisfaction to all that be truly pious and well-affected ſons of the Church of* Englaud.

*For his larger work of Tithes, which he prepared long agoe, it is alſo here added, though in ſome few places imperfect, and might have been better poliſhed by his own hand, if he had engaged himſelf upon it, and deſiſted from his greater works ſo much deſired by many eminently learned both at home and abroad: yet rather then ſuffer the loſſe of ſuch a teſtimony of his piety to God, and good affection to uphold the ſetled maintenance of Gods Houſe and Miniſters,*

1. Tim. 1. 15. *to* whom double honour is due, *as the Apoſtle ſaith, it is thought fit to publiſh it, as he left it, imperfect in ſome paſſages, and defective of ſuch ornaments and arguments, as he could have added further, out of his ſtore and abundance: though what he hath here delivered is ſo compleat, as doth fully diſcover the ability of his judgement; and that theſe reaſons and illuſtrations produced by him could hardly have proceeded from any other Author, being agreeable to his expreſſions, ſtyle, and arguments delivered in his other writings. And at this inſtant it ſeems very neceſſary, in regard the humour and diſpleaſure of many in the world, is now obſtinately bent to beat down, root up, overthrow, and deſtroy, whatſoever the piety and wiſdome of our forefathers built and contributed in the Primitive times of their faith and converſion to Chriſtianity, as if all they did, were Popiſh*

*and*

*and ſuperſtitious, fit to be rooted up: and as if themſelves had a Commiſſion as large as the great Prophet had from God,* and were ſet over the Nations and Kingdomes, to root out, and pull down, to deſtroy and to throw down, to build and to plant, *Jer.* 1.10.

*But if men will reſt ſatisfied, either with proof from divine authority, there wants not enough here to guide their conſcienees: or with humane Laws and Statutes confirmed, and fully enacted by many Parliaments, whereby they are now become ancient and fundamentall, as well as any other Laws, together with the conſtant courſe and practice of above a thouſand years in our Common-wealth, there wants not here the teſtimony of all our ancient Monuments, Statutes, Deeds, and Charters of our Kingdome, Princes, and Noble men, which this learned Knight hath more fully and compleatly publiſhed in order of time, and in their originall Saxon-language, in his firſt Tome of our Engliſh Laws and Councels, for the firſt five hundred years before the Conqueſt, being his laſt work before his death. Whereunto when the ſecond Tome (which he hath alſo finiſhed) ſhall be added for the next 500. years after the Conqueſt, together with his learned Commentary upon all difficult and ancient rites and cuſtomes; there will be abundant proof from all humane Laws, and the authority of our Common Law, together with the practice of our Kingdome, in ſeverall ages, that no man can raiſe a doubt or exception, that ſhall not receive ſatisfaction fully and clearly. As for the Laws of* Iſrael, *and the Heathens alſo in imitation of Gods own people, the Decrees and Canons of generall Councels, in ſucceeding times, here is alſo ſuch abundant teſtimony produced, that no judicious Reader can refuſe to yeeld his vote thereto, and approbation for continuance.*

*There is another noble and religious Knight of* Scot-

land, *Sir* James Sempil, *who hath ſo accurately laboured in this argument, and proved the divine right of Tithes from the holy Scriptures, inſiſting thereupon onely, and no other humane Authorities, or Antiquities, further then he finds thē to play upon the Text,* pro *or* contra, (as himſelf ſaith in his Preface) *that much ſatisfaction may be received from his pious endeavours; having therein cleared ſome Texts of Scripture from ſiniſter interpretations, and exactly conſidered the firſt Inſtitution and Laws for Tithes, delivered by God himſelf both in the Old and New Teſtaments.*

*If both theſe godly and learned witneſſes of the truth will not ſerve the turn to convince the judgement of ſome ill-affected, they being both raiſed up by God out of both*
Numb. 11. 26. *Nations, like to* Eldad *and* Medad, *among the people, extraordinarily to prophecy, and defend the truth, being moved and inſpired doubtleſſe by God himſelf, (beſides thoſe that belong to the Tabernacle) to uphold and maintain his own cauſe againſt the adverſaries of his Church; yet they may well ſtop the mouths of worldlings and Mammoniſts from clamour and inveighing, and perſwade them to acquieſce upon the known and fundamentall Laws of the Kingdome: which are as ancient and fundamentall as any other, or rather more, becauſe they concern eſpecially the upholding and maintenance of the worſhip of God, then which nothing can be more neceſſary or fundamentall: and therefore the pious and good King* Edward *the Confeſſor, doth begin his Laws with the recitall and confirmation of the Eccleſiaſticall Lawes, and particularly of Tithes, Church-poſſeſſions, and Liberties thereof:* A legibus igitur ſanctæ matris Eccleſiæ ſumentes exordium, quoniam per eam Rex & regnum ſolidum habent ſubſiſtendi fundamentum, leges, libertates, & pacem ipſius concionati ſunt.

*LL. ad confeſſ. in Proœm.*

*Becauſe*

*Becauſe thereby the King and Kingdome have their ſolid foundation for ſubſiſtence, therefore the laws, liberties, and peace thereof are firſt proclaimed and eſtabliſhed.*

*And thus begins alſo* Magna Charta, —Nos intuitu Dei, pro ſalute animæ noſtræ, ad exaltationem ſanctæ Eccleſiæ,&c. *and ſo alſo many other Statutes ſucceſſively,* pour le common profit de Saint Eſgliſe & del Realm, &c. *weſtminſt.* 1.

*The poſſeſſions, tithes, and rights of the Clergy being thus ſetled, they may doubtleſſe be enjoyed, having been freely collated (according as was foretold by the Prophets,* Eſay *and others) by Kings, Nobles, and many good men, fully confirmed by Law and Parliament, eſtabliſhed by the poſſeſſion of many hundred years: & that although in the beginning perhaps things were not ſo commanded in particular, as any man elſe may enjoy lands, goods, chattels, gifts and grants whatſoever is freely collated, purchaſed, or obtained by induſtry, or is freely given and bequeathed by Anceſtors, or other Benefactors, although perhaps there be not divine right in ſpeciall, to prove and juſtifie ſo much land, money, rents, or goods of any ſort to be his due and right.*

Eſay 49.23.

If theſe things had not been primarily due unto God, by the rule of his Word, yet are they now his, and ſeparate from us, by the voluntary gift and dedication of our ancient Kings and Predeceſſors. *Spelmans* firſt Treatiſe, § 5. *& cap.* 28. *inf.*

*God did foretell and promiſe by the Prophet* Eſay, cap. 49.23. *that he would raiſe up in the Church of the redeemed, Kings and Queens to be nurſing fathers, and nurſing mothers to his Church; that is, ſaith* Calvin *upon the Text,* Magni Reges ac principes non ſolùm Chriſti jugum ſubierunt, ſed etiam facultates ſuas contulerunt, ad erigendam & fovendam Chriſti Eccleſiam, ita ut ſe patronos & tutores ejus præſtarent. *Kings and Princes ſhould give much Lands, Revenues, and great maintenance for the worſhip of God, and his Miniſters, attending thereon, which promiſe God abundantly performed by many,*

*and great Emperours, Kings, and Princes in all Countries after their converſion to the faith.*

*The donations, gifts, and buildings of* Conſtantine *the firſt, and great Chriſtian Emperour born at* York, *and* Helena *his mother an Engliſh Lady, exceeding religious and devout, are famous in Hiſtory, together with their buildings and endowing of many ample and beautifull Churches in ſeverall Counties of the Empire. Neither did he thus alone in his own perſo, but he alſo gave leave to his ſubjects to doe the like, whereby the Church was greatly enriched in a ſhort time.* C. L. 1. c. de ſacroſanct. Eccleſiis, § Si quis authent. de Eccleſia.

*The gifts and buildings of divers other Emperours and Kings, as* Theodoſius, Juſtinian, Pipin, *and* Charles *the great are endleſſe to be repeated. When as any doth the like now, or repair old Churches formerly built, he is by ſome ignorant people tearmed Popiſh, or Popiſh affected.*

*The grants, buildings, and gifts of our own Engliſh Kings, Noble men, and Biſhops, ever ſince our firſt converſion, are famous in our Hiſtories: eſpecially of King* Lucius, *and* Ethelbert, *the two firſt of the Britiſh and Saxon Kings: ſo alſo of* Egbert, Alured, Ethelwolph, Edgar, Edward *the Confeſſor, and many others in times following after the Conqueſt, (no Princes, or Nobles, being more bountifull then ours in* England.*) Their Charters and Acts of Parliament are extant in the firſt Tome of our Councels by this Authour; and many are alſo mentioned by the learned*

Dominicum aureum. *Nobiliſſimum Antiochiæ templum à Conſtantino M. inceptum, ſub Conſtantio verò abſolutum; & hoc epitheto præexcellentia honoratum; inſigni Epiſcoporum populorumque confluentia ejus encæniam celebrante,* Hieron. in Chronico. In Antiochia Dominicum quod vocatur aureum, ædificari cœptum. *Et infra mox.* Antiochiæ Dominicum aureum dedicatur. *Gloſſar. Spelman. pa.* 224.

*Cyrill* deſcribing a Church of *Conſtantines* building in *Jeruſalem*, cals it, (*Cat.* 14.) ἀργιερέυδετον καὶ χρυσοκόλλητον τ ἐκκλησίαν, a Church all adorned, and emboſſed with ſilver and gold.

*Euſebius* reporting of the ſpacious and beautifull Church of *Tyre*, which was built anew by the famous B. *P. Paulinus* ſays, the luſtre and ſplendour was ſuch, ὡς θαυμάσιον τοῖς ὁρῶσι φαίνεσθαι τ θέαν, as made beholders amazed to behold it.

*ned* Selden *in his Hiſtory. Now when Churches are built, and grants of lands, tithes, and oblations are freely given by great Kings, confirmed by ſeverall Acts of Parliament, oftentimes renued and reiterated, as by the great Charter thirty times confirmed, and many other Statutes ſince, as alſo by the Text and body of the Common Law, which doth affirm Tithes to be due* Jure divino: *as is aſſerted by that ever honourable Judge and Oracle of Law, the Lord* Coke, *in the ſecond part of his Reports,* Diſmes ſont choſes ſpirituels, & due, de jure divino. *L'Eveſque de winchester caſe, fol.45.*

*Being thus ſetled and confirmed, and thereby becomming fundamentall Laws of the Kingdome, they may, and ought to be enjoyed peaceably, without grudging, or repining, alienation or ſpoil, without caſting an evill eye upon Gods allowance, and* becauſe he hath given the floure of wheat to make bread for his Sanctuary: *whereof God himſelf giveth charge in the laſt viſion of* Ezekiel, *contained in the laſt four chapters, where he appointeth a third part of the land to be ſet forth for his Temple, Prieſts, and ſervants, beſides the portions for the Prince, and for the people; which viſion for performance concerneth the Chriſtian Church, and was never fulfilled in the Jewiſh State, as this Author and many others doe ſhew: and there God doth eſpecially forbid alienation, ſelling or exchanging of his Temples portion, as being moſt holy unto the Lord,* Ezek.48.14. Ezek.45,&c.

*It concerns us therefore that live in theſe times of the Chriſtian Church, when we ſee the ancient propheſie fulfilled by Kings and Princes, in giving much to the Church, to preſerve Gods portion entire without alienation, ſpoil, or violence. The Primitive times of the Church, as this Authour ſheweth,* ch. 6. *as had not been ſince the very Creation: times wherein God opened the windows of perſecution, and raind*

*rained bloud upon his Church, as hee did water upon the world in the days of* Noah, *during the ten grievous persecutions in the first* 300. *years after Christ, so that no man must expect then to finde setled Lawes for Tithes, Lands, or maintenance of the Clergy, when the Emperors and Magistrates were Heathens persecuting the Church, and made many furious edicts for rasing and ruinating of Churches, which had been built by Christians in some times of intermission, as appears by* Eusebius, *when hee comes to the times of* Diocletian. *Every good Christian, and almost every Clergy-man, lost his life for religion; no man did care or expect for preferment, maintenance, or dignity, save onely the crown of martyrdome, which many thousands did obtain:* The Church, *saith this Author,* Cap.6. did all that while expose the dugs of her piety unto others, but did live her self on thistles and thorns, in great want oftentimes, necessity, and professed poverty. *Now those men that would reform all according to the pattern of the Primitive Church, and the Apostolicall times, do not consider, that the Clergy must be reduced again to the same condition of poverty, want, and misery, as formerly they were, if the pious and charitable gifts, and donations of Kings and Nobles, in the ages next succeeding the persecutions, should be taken away, and the ancient patrimony of Tithes abated, or subverted by the worldly and covetous practices of them that esteem gaine to be godlinesse. The kytes of Satan (as this Author tearmeth them) have already pulled away many a plume from the Church in severall ages, yet thanks be to God, there be some feathers left to keep her from shame and nakednesse, if the sacrilegious humour of the times prevail not against her. And there is the more reason to hope and expect that we may enjoy our portion and tithes quietly, be-*

*cause*

*cauſe we have ſo much leſſe then the old Prieſts and* Levites *received from the people: for they had ſeverall tithes and oblations for themſelves, for the feaſts and for the poor, wherein they did ſhare in a far greater proportion then is now required by the Clergy of the Goſpel.*

*The learned* Scaliger, Selden, *and many others do prove apparently by inſtance of particulars, that the Iſraelites did pay out of their increaſe of corn much more then a tenth, even almoſt a fifth part for ſeverall tithes and duties then commanded to them. I will recite Mr* Seldens *example,* Hiſtory ca. 2. § 4.

| | | |
|---|---|---|
| *The Husband-mā had growing,* | 6000 | *Buſhels in one year.* |
| | 100 | *Buſhels was the leaſt that could be paid by the husband-man to the Prieſts for the firſt-fruits of the threſhing floore.* |
| | 5900 | *Buſhels remained to the husband-man, out of which he paid two tithes.* |
| | 590 | *Buſhels were the firſt Tithe paid to the* Levites. |
| | 59 | *Buſhels the* Levites *paid the Prieſts, which was called the Tithe of the Tithes.* |
| | 5310 | *Buſhels remained to the husband-man, out of which he paid his ſecond Tithe.* |
| | 531 | *Buſhels were the ſecond Tithe.* |
| | 4779 | *Buſhels remained to the husband-man, as his own, all being paid.* |
| | 1121 | *Buſhels are the ſum of both Tithes joyned together, which is above a ſixt part of the whole, namely, nineteen out of an hundred.* |

*So that of ſixe thouſand buſhels the* Levites *had in*

*all* 1063. *whole to themſelves: the Prieſts* 159, *and the husband-man onely* 4779. *He yearly thus paid more then a ſixt part of his increaſe, beſides firſt-fruits, almoſt a fifth: many of no ſmall name, groſſely skip in reckoning theſe kindes of their Tithes, ſaith M.* Selden. *Obſerve how much* (*ſaith* Chryſoſtome, *ſpeaking of the great maintenance of the* Levites) *the Jews* gave to their Prieſts and *Levites*, as tenths, firſt-fruits, then tenths again: then other tenths, and again, other thirtieths, and the ſicle, and yet no man ſaid, they eat, or had too much.

*In Epiſt. ad Philip. Tom. 4. Edit. Savil.*

*The* Rabbins *alſo reckon* 24. *gifts to the Prieſthood, according as they are ſet down both by* Rabbi Bechai, *and* R. Chaskoni, *on* Numb. 18. *and ſo* Jarchi *on* Gen. 29.34. *and in* Talmud. *in the* Maſſech, Cholin. 133.f. 2. pag. *in this order: i.* The twenty four gifts of the Prieſthood were given to the Prieſts, twelve at *Jeruſalem*, and twelve in the borders: the twelve that were given in *Jeruſalem*, are theſe, the ſin-offering, the treſpaſſe-offering, the peace-offerings of the Congregation, the skins of the holy things, the ſhew-bread, the two loaves, the omer, or ſheaf, the remainder of the meat-offerings, the reſidue of the log, or pinte of oyle for the Leper, the oblation of the thankſgiving, the oblation of the peace-offering, the oblation of the Ramme of the *Nazarite*. And theſe following are the twelve that were given in the borders: the great heave-offering, the heave-offering, or oblation of the tithe, the cake, the firſt-fruits, the firſt of the fleece, the ſhoulder, the two cheeks and the maw, the firſt-born of man, the firſt-born of the clean beaſt, the firſtling of the Aſſe, the dedications or vows, the field of poſſeſſion, the robbery of the ſtranger, *Lev.* 6. 5. *Numb.* 5. 7, 8. Theſe are the 24. gifts that belonged to the

Prieſt-

Prieſthood. *But among theſe, there is no mention of the firſt-born of any unclean beaſt, but onely the Aſſe, and no mention at all of the tithe of cattell. Thus a learned Author obſerveth out of the* Rabbins. *M.* Nettles, *pag.* 120.

*All theſe ſeverall tithes, oblations and duties were paid, not deducting nor accounting their charges and labour of the husbandman; and yet they among their aphoriſmes both divine and morall, doe tell us, that as the* Maſoreth *is the defence of the Law: ſo* משרות סיג לעשר, Maighſheroth ſeag Laighſher, *that is, tithes paid are the defence of riches: ſo God promiſed,* Mal. 3. Bring ye all the tithes into the Store-houſe, that there may be meat in my houſe, and prove me herewith, ſaith the Lord of hoſts, if I will not open you the windows of heaven, and pour you out a bleſſing, that there ſhall not be room enough to receive it.

*And one notes, that at this day, when they have no Temple, nor Prieſthood:* Qui religioſiores ſunt inter Judæos, loco decimarum, eleemoſynam pendunt de omnibus lucris decem aureos de centum, centum de mille: *as M^r* Selden *obſerveth in his* Review, cap. 2.

*Yea, they paid not onely their tithes, but their firſt-fruits alſo, wherein they were ſo liberall in ſome ages, that even from the abundance of firſt-fruits paid by the owners to the Prieſts, there was not a Prieſt in the* 24. *courſes of them, but might be accounted a very rich, or largely furniſhed man; as M^r* Selden *obſerveth out of* Philo: *and that they prevented the officers in demanding of them, paid them before they were due by Law, as if they had rather taken a benefit then given any; both ſexes of their own moſt foreward readineſſe in every firſt-fruit ſeaſon, brought them in with ſuch courteſie, and thankſgiving, as is beyond all expreſſion; whereas in theſe times nnder the Goſpel the Prieſthood is*

*far more excellent then that of the Law, and the Clergy deſerves infinitely more then the old Prieſts and* Levites: *whoſe employment is not to light candles, ſnuffe lamps, ſet bread upon the table, kindle fire, put incenſe at the Altar, to kill, ſlay, and hew beaſts in pieces, but have incumbent* onus, *even* Angelis formidabile, *if men would rightly underſtand what they undergoe, or others value what theſe ſuſtain. They have* ἐπιφασίαν *of the ſouls of men, which is an office no temporall ſatisfaction can countervail: accountable to God for themſelves and others. Their ſtudy, labors, after long and chargeable education, in reading, watching, preaching, praying, viſiting the ſick, are fully expreſſed by this learned Author,* cap. 14. *Yet the husband-man payeth now but one tenth to the Clergy, and no particular tithe for feaſts, or to the poor, or other uſes, as the* Iſraelites *did. But the Clergy now beſides out of their ſmal receits, bear the burden of tenths and firſt-fruits to the value of thirty thouſand pounds yearly, impoſed on them lately, whereas tenths were not annually paid before the* 26 H.8. *(which Statute was repealed by* Q. Mary) *but at ſome times: but they were a Popiſh invention at the firſt, and onely of late years, though now continued yearly, and further charges impoſed in taxes to the poor, and ſubſidies to the publique in a greater proportion then by the Laity; proviſion of arms alſo, though their tithes and dues are abated and cut ſhort more then anciently, not onely by fraud and falſe payment, but alſo by unconſcionable ſmall rate-tithes and cuſtomes almoſt*

[f] *Decimæ Philippo Regi Francorum in oppugnationem Saladani Mahometani principis conceſſæ erant. Hujuſmodi etiam obtinuit Rex Angliæ Richardus* 1. *ut teſtatur Matth. Pariſ. in Anno* 1189. *& ab exemplis iſtis poſteri ſæpe Reges.*

*Annatas, ſive primitias, Bonifacius Papa beneficiis Eccleſiaſticis primus impoſuit, circa annum* 1400. *ſunt tamen qui hoc inventum Iohanni* 22. *aſcribant: hanc autem conſuetudinem omnes admiſere, præter Anglos, qui id de ſolis Epiſcopatibus conceſſere, in cæteris beneficiis non adeo.* Platina. *Hodie fiſco penduntur non tantùm ex Epiſcopatibus, verùm etiam ex beneficiis quibuſlibet Eccleſiſticis, annui valoris* 10. *marcarum, Vicariiſque* 10. *lib. nec minores ſane, quàm unius anni fructus integri, juxta tabulas Regias æſtimandos.* Gloſſarium Spelm. in Annatis.

*moſt in every Pariſh: And alſo many great eſtates wholly diſcharged of tithes, as Ciſtercian lands, and thoſe of the Templars and Hoſpitalers, (who had thirty thouſand manours in Chriſtendome, whereof a great part were in* England) *by the Popes pretended priviledges, and exemptions: though we abhorre and deteſt the Pope, yet for our profit we make uſe of his Buls and authority: all which loſſes and charges are not to be forgotten, though we ſubmit under them patiently, as our Saviour Chriſt did to pay tribute, when it was not due,* Mat. 17.

*And this we yeeld unto further, though we have loſt almoſt all the ancient priviledges and immunities, which were formerly granted to the Clergy: which were given, that they might be encouraged to attend their ſtudies without diſtraction or avocation by ſecular troubles: The ancient Kings and Parliaments, allowing many freedomes from ſeverall ſervices, impoſitions, and taxes: as appears by many Laws and Charters, in the firſt Tome of our Engliſh Councels, (ſee the title* De libertatibus Eccleſiæ) *and by Lord* Coke *in the ſecond of his Inſtitutes upon* Magna Charta, pag 3, 4. *where he reckoneth up many priviledges, and how Eccleſiaſtic all perſons ought to be quit and diſcharged of tols, and cuſtomes, as* avirage, pontage, paviage, *and the like, from diſtreſſes by Sheriffes, and many others: but as he there confeſſeth, they are now loſt, or not enjoyed: though anciently they had more and greater liberties, then other of the Kings ſubjects; but now no men are more burdened with taxes, and impoſitions, that we are become in the ſight of too many men,* as the filth of the world, and the off-ſcouring of all things; *as the Apoſtle complaineth,* 1 Cor. 3. *And whereas this Author ſheweth,* ca. 3. *how the habitation of the Miniſter ſhould be as becommeth ſtudents, and men of contemplative life, under their own*

*Tom.* 1. *Concil. Britan.*

*command and ſolitary. It now happens, that no mens habitation is more troubled with vexations and ſouldiers quartered upon them.*

*Beſides the Prieſts and* Levites *had the ranſomes of the firſt-born both of man and beaſt, great benefit by ſeverall kinds of ſacrifices, and head-money paid yearly, and many other perquiſites,* and to what a ſum (*ſaith* Philo) theſe might amount, may be gueſſed by the populouſneſſe of the Nation: *and further they had* 48. *Cities ſet out by* Joſhua, *cap.* 21. *for their habitations, and two thouſand cubites about them, (each cubit being a full yard) beſides one thouſand next the wals for their cattell: whereunto were added* 20. *cities more in proceſſe of time, when the number of the Tribe was increaſed greatly, as this Author ſheweth,* ca. 3. *And all this they had, though the Tribe of* Levi *was not near a tenth part of the people, which yet is an errour, that hath poſſeſt ſome great Names, (as M.* Selden *well obſerveth) they thinking there was ſuch a proportion of the Tithes, and the receivers, and have reſted therefore fairly ſatisfied in this, that the* Levites *being one of the* 12: *Tribes, had the tenths as a competent maintenance to themſelves, being near the tenth, that is, being the twelfth part of the people, as if arithmetically the people and the revenues had been divided: but long ſince the ſleightneſſe and falſhood of this fancy hath been diſcovered. And clearly had ſuch a proportion of perſons, and the name of tenth held; yet examine all that was paid to the Prieſts and* Levites *in firſt-fruits, and the ſeverall prediall tenths onely, and it will be neer a fifth part, to omit the Cities and ſuburbs; but for proportion betwixt the tithes, wee have ſufficient teſtimony in holy writ, that it was far otherwiſe, for they were onely about a threeſcore part of the people. And ſo* Bellarmine *ſheweth,* Tom. 2. de clericis, cap. 25.——

Exod. 30. 13.

Numb. 35. 4, 5. No Tribe but the royal Tribe of *Juda* had ſo many Cities allowed to them: as *Joſ.* 15. & 21

Num. 1. & 3.

Jam

Jam igitur addendo Levitas cæteris Hebræis, dividendo totum numerum per viginti duo millia, efficiuntur partes diviſæ ſexaginta. Ergo Levitæ non erant pars tertia decimæ, ſed vix ſexageſima totius populi. *It is to no purpoſe to look after any ſuch thing, I reſt in this* (*ſaith M.* Selden) *that it pleaſed the Almighty ſo to enrich that Tribe, which was reſerved onely for the holy ſervice in the Temple: why he did ſo, or with what proportion, let him for me examine, who dare put their prophane fancies to play with his holy text, and ſo moſt impudently and wickedly offer to ſquare the one by the other.* Review, cap. 2.

A pitiful wonder it is to ſee learned men alledge ſuch reaſons: as Sir *James Sempil* ſaith, *p.* 23.

*Now becauſe the* Iſraelites *were thus bountifull to their Prieſts and* Levites, *therefore the Chriſtians in ſucceeding times, gave not onely many rich gifts and grants in lands, and ſeverall oblations, but alſo for the continuall ſupport and maintenance of the Clergy by tithes, they made Laws that every one ſhould pay a ninth part, beſides their tenths, that ſo they might be ſure to pay more then a tenth, with an overplus rather then come ſhort by any leſſe quantity: and much to that purpoſe the learned* Grotius *ſheweth,* De jure belli ac pacis, *li.* 1. *ca.* 1. § 17. Lex vetus de Sabbatho & altera de decimis, monſtrant Chriſtianos obligari, nec minus ſeptima temporis parte ad cultum divinum, nec minus fructuum decima in alimenta eorum qui in ſacris rebus occupantur, aut ſimiles pios uſus ſeponunt. *But this is more fully proved by the learned* Spelman *in his Gloſſary, where he alledgeth and explicateth ſeverall Laws of divers Kings, which are too many to be here recited, but ſhall be produced in due time and place.*

*Concil. Valentin. Anno* 855. *Com.* 10. *Tom.* 3. *Concil.*

*Now if any motives will effectually encourage men to pay their dues with a liberall hand and eye, or deterre the hearts of worldly men from keeping back, prophaning or taking away that which hath been ſetled, given and granted by*

*Nonæ] quas pii ex propenſiori in Deum animo dabant, ultra decimas. Quod plurimis Ll. allatis probat & explicat. Gloſſar. Dni. Spelm.*

*Laws*

*Laws divine and humane, it muſt be the actions and examples of our Saviour Chriſt himſelf, who plainly diſcovered his zeal againſt ſacriledge and prophaning of holy things and places, more then againſt any other ſin. For when he began to execute his Propheticall office, and reproved all kind of ſins among the people, yet he preceeded to puniſh not any ſave onely ſacriledge, which is very remarkable. He refuſed to be Judge in dividing the inheritance between the two brethren, and he would give no ſentence againſt the woman taken in adultery: but in caſe of ſacriledge himſelf made the whip, himſelf puniſheth the offenders, himſelf overthroweth the mony tables, and driveth out the prophaners out of the Temple, with their ſheep and their oxen, not ſuffering the innocent doves to remain, though all theſe were for ſacrifice, and but in the outward Court-yard of the* Gentiles: *ſuch was his zeal as himſelf refuſed not to be the accuſer, the Judge, and the executioner; and this not only once but twice, at the firſt in the beginning of his Miniſtery, recited by S.* John, c. 2. 14. *and at the laſt neer the concluſion thereof,* Mat. 21. 11. Jeſus quàm ad ſacra emendanda bis conſpicuo ſigno teſtatum hoc fecit, templum velut ſacrorum ſedem purgando circa initium, & circa clauſulam ſui muneris, ut in quo inceperat in eo ſe deſinere oſtenderet. *Grotius in Johan.* 2. 14. *And S.* Hierome *accounteth it to be one of the greateſt miracles that ever Chriſt did. Many men doe account that the greateſt miracle that ever Chriſt did, was the raiſing of* Lazarus *out of the grave, or the reſtoring*

In Mat. 21.

Plerique arbitrantur maximum eſſe ſignorum, *quod Lazarus eſt ſuſcitatus: quod cæcus ex utero lumen acceperit: quod ad Iordanem vox audita ſit Patris: quod transfiguratus in monte, gloriam oſtenderit triumphantis: mihi inter omnia ſigna, quæ fecit, hoc videtur mirabilius eſſe, quod unus homo, & illo tempore contemptibilis, & in tantum vilis, ut poſtea crucifigeretur, Scribis & Phariſæis, contra ſe ſævientibus, & videntibus, lucra ſe deſtruiſſe, potuerit ad unius flagelli verbera, tantam ejicere multitudinem, menſaſque ſubvertere, & Cathedras confringere, & alia facere, quæ infinitus non feciſſet exercitus, igneum ei quiddam atque ſydereum radiabat ex oculis ejus, & divinitatis Majeſtas lucebat in facie.* Hieron.

*of*

*of ſight to him that was born blind; that the voice of his Father was heard at* Jordan; *or that at his transfiguration in the Mount he ſhewed forth his glory: but I rather think, the greateſt wonder that ever Chriſt did, was, that he being but one ſingle man, and all that time in a contemptible condition, and ſo vile, that ſhortly after they crucified him, ſhould be able with a whip to drive out of the Temple ſuch a multitude of men, officers, buyers and ſellers, and overthrow their tables, ſeats, and receipts, (the Scribes alſo beholding it, and ſeeing their own profit to be overthrown thereby) and doe ſuch a ſtrange thing, as a whole Army of men could not have done it at another time. But his principal end being to cleanſe and purge his Temple and Houſe of Prayer, from prophanation, ſacriledge, and abuſes, it plainly ſheweth us, how odious a ſin it is, to be guilty of the like abuſes: and what puniſhment men muſt expect in his appointed time to follow upon the like offence, though now he doth forbear ſuch miraculous proceedings in theſe latter days; when we are directed to ſearch the Scriptures ſo plainly publiſhed to us, and to take admonition from former examples, which are recorded for our admonition upon whom the ends of the world are come.*

*Some are of opinion lately, that ſo the Clergy may have a competent maintenance, whether it be by ſtipend, or any way elſe, it is ſufficient proviſion for them: and becauſe divers have publiſhed their opinion this way, here ſhall be ſomething in anſwer to them. Theſe men make themſelves wiſer then God himſelf, for he required tithes and firſt-fruits in their kinde, not in money:* Decimas & primitias tuas non tardabis offerre, *Exod.* 22. 29. *he could have appointed ſome ſhekels of the Sanctuary to be paid to every Prieſt and* Levite, *for the maintenance of himſelf and his family, if that had been the beſt and moſt certain means.*

*But the uncertainty of ſtipends, collections, or payments in money is ſo great, as would in proceſſe of time bring very great loſſes and inconveniences, both upon the people in payments, and upon the Clergy; for the change and variations of the ſtandard for money is ſo great and uncertain in all ages, (as this learned Author ſheweth in his Gloſſary* in voce, Eſterlingus & Libra—— *) that if an hundred pound according to theſe times, ſhould be allowed for a ſtipend to a Miniſter yearly, it may be as much in value as* 300 *l. or* 400 *l. in the compaſſe of an hundred years following: as we finde evidently by the experience of the laſt hundred years paſt; and ſo likewiſe of every hundred years ſince the Conqueſt, and before it: which hath happened of late times by the diſcovery of the Weſt-Indies, the trade and commerce thither, and the riches of their mines brought into* Europe, *all which may fail in the next age, or be otherwiſe diverted, and ſtopt, beyond the imagination or providence of any man. Further, by payment of tithes in kind out of all profits ariſing by Gods bleſſing on our labours, the Clergy doe partake with the people in times of plenty, or ſuffer with them in extremities, whereas by a certain ſtipend in mony, they would be far leſſe ſenſible. Alſo the change and alteration of the fundamentall Laws of this Kingdome touching tithes, glebe, oblations, and other means, which have continued in force above a thouſand years, and ſetled by the Common Law, will produce many miſchiefs, eſpecially to the Crown, in payment of tenths and firſt-fruits, ſubſidies, penſions, and other taxes, which amount yearly unto many thouſand pounds to the Exchequer: all which muſt be abated and loſt to the Crown; for no reaſon they ſhould be paid when the means and maintenance ſhall be taken away, out of which they ariſe.*

*Beſides*

# To the Reader.

*Beſides the impoſſibility to provide a ſure and ſetled means in every Pariſh to pay a certain ſtipend in money quarterly to the Miniſter, there can be no caution, proviſion, or ſecurity given or eſtabliſhed for payment of money; for wee ſee by daily experience that all bonds, conveyances, and ſecurities doe fail often, whatſoever the deviſe bee for ſecure payment. No way is comparable to Gods own way of giving yearly the tenth part in kinde, of every increaſing commodity, and all lawfull profits, as they ariſe and grow due at ſeverall ſeaſons of the year. As for ſtipends and penſions, becauſe they have been lately invented in ſome forain Churches, in times of war, great troubles and diſtractions; I will mention only one miſchief, which is already publiſhed in print; and that is, that the beſt learned are oftentimes neglected, and put to hard ſhifts, as in the Low-Countries* John Druſius *lately a very painfull and learned man, well known for his ſingular works: He complains in an Epiſtle to* Joſeph Scaliger *before his Commentary on the* Maccabees, *that hee was in want of things neceſſary; and elſewhere prayeth unto God to ſtir up the hearts of the great ones to help him: May heaven and earth take notice (ſaith one thereof) how miſerable the condition of the learned is, when tithes the fixed honourary of the Prieſthood by divine right, are uſurped by the Laicks, and reward is meaſured not by true worth, or by the meaſure of the Sanctuary, which was full, running over and double to the common and prophane meaſures; but by the ignorant eſtimate of niggardly Mechanicks and their underagents. Many more ſuch complaints might be eaſily alledged out of* Luther, Melancthon, Calvin, *and others, which I will now forbear: one great reaſon be-*

*ing, that their Churches for moſt part are ſtill under great perſecution, miſerable wars, pitifully waſted, being never almoſt quietly compoſed, nor ſetled by Kings and Parliaments, as ours hath been; for the Emperour and many great Kings and Princes continue Papiſts, and great adverſaries to Reformation: whereby* Germany, France, *and* Poland, *have moſt ſharply ſuffered, and loſt many thouſand Churches and Miniſters, ſince the the blazing Comet* 1618. *the people being relapſed and inforced to Popery for want of Miniſters: which makes the reverend and learned* Deodatus, *Profeſſor at* Geneva, *magnifie the Church of* England, *as the moſt eminent of all the reformed Churches in Chriſtendome ſtyling it*, Florentiſſima Anglia, Ocellus ille Eccleſiarum, peculium Chriſti ſingulare, perfugium afflictorum, imbellium Armamentarium, inopum promptuarium, ſpei melioris vexillum, —— ſplendidæ Domini caulæ, —— *and much more he addeth, ſpeaking of our condition before theſe troubles.*

*If any demand what ſucceſs the labours of this worthy Knight found among the Gentlemen of* Norfolk, *and other places, where he lived long in very great eſteem, and publiquely imployed always by his Prince and Countrey in all the principall offices of dignity and credit, it is very obſervable to alledge ſome particular teſtimonies worthy to be recorded to poſterity, and with all honour to their names, who were perſwaded preſently upon the reading of his firſt little Treatiſe (and perhaps upon ſight of the larger worke now publiſhed, more the like good effects may follow) to reſtore and render back unto God what was due to him.*

*And firſt the worthy Knight practiſed according to his own rule: for having an Impropriation in his eſtate, viz.* Middleton *in* Norfolk, *he took a courſe to diſpoſe of it for the augmentation of the Vicarage, and alſo ſome addition to*

Cong-

Congham *a ſmall Living neer to it: Himſelf never put up any part of the rent, but diſpoſed of it by the aſſiſtance of a reverend Divine his neighbour M.* Thorowgood, *to whom he gave power to augment the Vicars portion, which hath been performed carefully: and having a ſurpluſage in his hands he waits an opportunity to purchaſe the Appropriation of* Congham, *to be added to the Miniſter there, where himſelf is Lord and Patron.*

*Next S*r Ralph Hare *Knight, his ancient and worthy friend in that Country, upon reading of the firſt Book, offered to reſtore a good Parſonage, which onely he had in his eſtate, performing it preſently, and procuring licence from the King, and alſo gave the perpetuall Advowſon to Saint* Johns *Colledge in* Cambridge, *that his heirs might not afterwards revoke his grant: wherein he was a treble benefactor to the Church, and the Colledge hath deſervedly honoured his memory with a Monument of thankfulneſſe, in their Library, and alſo wrote a reſpective letter of acknowledgement to this excellent Knight, to whom they knew ſome part of the thanks to be due, for his pious advice and direction.*

*Sir* Roger Townſend *a religious & very learned Knight, of great eſtate in that County, reſtored three Impropriations to the Church, beſides many ſingular expreſsions of great reſpect to the Clergy, having had a great part of his education together with S*r John Spelman, *(a Gentleman of incomparable worth) eldeſt ſon to S*r Henry, *and by his directions both attained great perfection and abilities.*

*The like I have underſtood of others in that Country, but cannot certainly relate their names & all particulars at this preſent, that Shire abounding with eminent Gentlemen of ſingular deſerts, piety, and learning, beſides other ornaments, as* Cambden *obſerveth of them.*

*In other parts divers have been moved with his reaſons to make like reſtitution, whereof I will mention ſome: as Sir* William Dodington *Knight of* Hampſhire, *a very religious Gentleman, reſtored no leſſe then ſix Impropriations, out of his own eſtate, to the full value of ſix hundred pounds yearly and more.*

Richard Knightley *of* Northamptonſhire *lately deceaſed, reſtored two Impropriations,* Fanſley *and* Preſton, *being a Gentleman much addicted to works of piety, charity, and advancement of learning, and ſhewing great reſpect to the Clergy.*

*The right honourable* Baptiſt *Lord* Hicks *Viſcount* Campden, *beſides many charitable works of great expence to Hoſpitals and Churches, as I find printed in a Catalogue of them in the Survay of* London, *reſtored and purchaſed many Impropriations.*

1. *He reſtored one in* Pembrokeſhire *which coſt* 460l.
2. *One in* Northumberland, *which coſt* 760l.
3. *One in* Durham, *which coſt* 366l.
4. *Another in* Dorſetſhire, *which coſt* 760l.

*He redeemed certain Chantry lands, which coſt* 240l.
*And gave penſions to two Miniſters, which coſt* 80l.
*Beſides Legacies to ſeverall Miniſters.*——

*The particulars are more fully recited in the Survay, to which I referre,* pag. 761.

*M*ris Ellen Goulſton *Relict of* Theodore Goulſton *D*r *of Phyſick, a very learned man, being poſſeſſed of the Impropriate Parſonage of* Bardwell *in* Suffolk, *did firſt procure from the King leave to annexe the ſame to the Vicarage, and to make it preſentative, and having formerly the donation of the Vicarage, ſhe gave them both thus annexed freely to S*t Johns *Colledge in* Oxon: *expreſſing many godly reaſons in a pious letter of her grant, to advance*

*vance the glory of God to her power, and give the world ſome teſtimony, that ſhe had not been a fruitleſſe obſerver of thoſe who taught her that knowledge, without its fruit, and that love of Chriſt, without love to his Church was but an empty mask of an empty faith.*

*Thus with devout prayers for ableſsing from God upon thoſe which ſhould be choſen Rectors there, ſhe commended the deeds and conveyances of the Parſonage for ever to the Colledge. And this way doth juſtly ſeem the beſt manner of reſtitution, it being a double benefit to the Church both in providing carefully for the Pariſh, and ſelecting out of the Vniverſities able and worthy Divines in due time and manner without any corruption, which the Colledges are carefull to avoid; and therefore that courſe was followed by Sir* Ralph Hare *already mentioned, by the prudent adviſe of Sir* Henry Spelman: *which courſe if it had been obſerved by them who lately were imployed in purchaſing of Impropriations, they had freed themſelves from ſiniſter ſuſpitions, by deveſting themſelves wholly of any profits reſerved to their diſpoſing, and might have much advanced the glory of God by diligent preaching, within the campaſſe of few years: and many would have been perſwaded eaſily to become contributers and benefactors to their purpoſe.*

*Divers Colledges in* Oxon: *having been anciently poſſeſſed of Impropriations, have of late years taken a courſe to reſerve a good portion of the tithe corn, from their tenents, thereby to increaſe the Vicars maintenance: ſo that the beſt learned Divines are willing to accept the Livings: and yet the Colledge is not diminiſhed in rents, but loſeth onely ſome part of their fine, when the tenants come to renue their Leaſes.*

*Certain Biſhops alſo have done the like; as* Dr Morton, *whiles*

*whiles he was Biſhop of* Lichfield *did abate a good part of his fine to encreaſe the portion of the Miniſter in the Vicarage of* Pitchley *in* Northamptonſhire, *belonging to his Biſhoprick: and ſo did his ſucceſſor* Dr Wright, *for the Vicarage of* Torceſter *alſo in the ſame ſhire: which was very piouſly done, conſidering what great Lands and Manours were taken away from that Biſhoprick among others, and ſome Impropriations given in lieu of them.*

*Beſides, this preſent Parliament hath taken ſingular care to augment the maintenance of many poor Vicarages, and other ſmall Livings: wherein they have proceeded carefully, and have made many additions to ſeverall poor benefices, for the better inabling of the incumbent Miniſters to be faithfull and diligent in their callings.*

*And while Sir* Hen. Sp. *lived, there came ſome unto him almoſt every Terme at* London *to conſult with him, how they might legally reſtore and diſpoſe of their Impropriations to the benefit of the Church: to whom he gave advice, as he was beſt able, according to their particular caſes and inquiries, and there wanted not others, that thanked him for his book, promiſing that they would never purchaſe any ſuch appropriate Parſonages to augment their eſtates. Whereby it appears how effectually the conſciences of many men were moved with his moderate and pious perſwaſions: and himſelf was much confirmed in his opinion of the right of Tithes, which moved him to conſign his works of this argument, beſides others, to my care, with direction to publiſh them, as is alſo expreſſed in his laſt Will and Teſtament.*

*Whereupon I hold my ſelf obliged in conſcience and duty to God, and to the memory of this excellent Knight, to whom I was infinitely obliged for his inſtructions, conferences, and favours, which I enjoyed in the courſe of my ſtudies,*

*ſtudies, many years frequenting his houſe and company: not to conceal theſe works any longer from the publique view, but to publiſh them to the benefit of the Church, and ſervants of God, now eſpecially when prophaneneſſe hath ſo licentiouſly overflowed, and the covetous wretches and Mammoniſts of this world, have begun to withdraw and deny their Tithes, muttering that they are Popiſh and ſuperſtitious, and therfore to be rooted out, as their language is: wherein yet the Parliament hath honourably diſcovered their zeal and care by their cenſure and check upon the Petition againſt Tithes exhibited in* May 1646. *and by their Ordinance providing for the true payment of all tithes, rights, and dues to the Church, as more fully appears therein.*

*Wherein they have followed the moderne and ancient Lawes, as that expreſſion of the Act of Parliament,* 27 Hen. 8. cap. 20. That whereas numbers of ill diſpoſed perſons, having no reſpect of their duty to Almighty God, but againſt right and good conſcience did withhold their Tithes due to God, and holy Church: *as in that Statute is more at large expreſſed. So in the* 12. *Tables,* Sacrum ſacrove commendatum qui dempſerit rapſeritve, parricida eſto. *It being accounted ſacriledge by all Laws to take away ſuch things as have been formerly given to God: for ſo they were given expreſly to God: as* Magna Charta *ſaith:* Conceſſimus Deo——*we have given to God, for us and our heirs, &c. So* Charles *the great:* We know that the goods of the Church are the ſacred indowments of God. To the Lord our God we offer and dedicate whatſoever wee deliver to his Church. *Cap. Car. lib. 6. So* Tully *anciently*: Communi jure gentium

ſancitum eſt ut ne mortales, quod Deorum immortalium cultui conſecratum eſt uſucapere poſſint. *So* Calvin, Sacrum Deo non ſine inſigni in eum injuria ad profanos uſus applicatur. *Inſtit. li.* 3. *cap.*7. ℘ 1.

*Tithes therefore being conſecrated unto God, ought carefully to be preſerved in theſe days, in regard the Church enjoyeth not the tithe of the tenth, which formerly it had, and hath alſo to this day among the Papiſts, who doe not take away from the Church, but are ready to reſtore, as they have done in many Countries.*

Con-

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*Some places and quotations are defective in the originall, and could not easily be ſupplied, which the Reader may pleaſe to excuſe, till further ſearch can be made.*

*In the catalogue of Benefactors and Reſtorers of Impropriations, there is omitted among others,*

*The Right honourable Lo*: Scudamore, *Viſcount* Slego, *who hath very piouſly reſtored much to ſome Vicarages in* Hereford*ſhire*: *whereof yet I cannot relate particulars fully.*

*D*r Fell *the worthy Dean of Chriſt-Church in* Oxon: (*with the conſent of the Prebendaries*) *hath for his ſhort time, ſince he was Dean, been very carefull and pious in this kind, beſides great reparations of the decayed and imperfect buildings, and other neceſſaries of the colledge: in renuing and granting Leaſes to the Tenants of Impropriations, he hath reſerved a good increaſe of maintenance to the incumbent Miniſters in divers places: and hath put things into a courſe for the like increaſe in other Vicarages, as Leaſes ſhall happen to be renewed. And much more might have been done, if King* Hen.8. *had not taken away the goodly Lands provided for that colledge by* Wolſey, *giving Impropriations for them, by which exchange he was a great gainer.*

New *Colledge*, Magdalen *Coll*: *and* Queens *Coll*: *have done the like upon their Impropriations, and ſome others have made augmentations alſo, whereof the particulars ſhall appear hereafter, upon perfect information.*

THE

# The Introduction.

GOD hath created all things for his glory; and muſt be glorified by them, all in generall, and by every of them in particular. The celebration of this his glory, he hath committed in heaven to the Angels, in Earth unto Man. Yea the devils declare his glory, and Hell it ſelfe roareth it forth. For this purpoſe he hath aſſigned unto man the circuit of the whole earth, to be the ſtage of this Action, and the place of his habitation, whilſt it is in hand. He hath delivered unto him the wealth and furniture thereof, to be the materials for performing of it: and the meanes of his maintenance in the meane ſeaſon. And leſt he ſhould want leiſure, and opportunity ſufficient for ſo great a buſines, he hath commanded the heavens themſelves, the Sunne, the Moone, the Starres, yea the whole frame of Nature, to attend upon him, to apply their ſweet influence unto him: to aſſiſt him in all his indeavours, and to meaſure him out a large portion of time and life for the full accompliſhing of this right noble moſt glorious Vocation.

Prov. 16. 4. for himſelfe. Eſay. 43. 7.

Wiſd. 9. 2. Ecclus. 17. 2.

Deut. 4. 19.

Ecclus. 17. 2.

It is a rule in Philoſophy, that *Beneficium requirit officium*. And we are taught by the law of nature, that he which receiveth a benefit oweth to his benefactor, Honour, Faith, and Service, according to the proportion of the benefit received. Vpon this rule was the ancient law not onely of England, but of other Nations alſo, grounded, that compelled every man that had Lands, or tenements of the gift of another to hold them of his Donor, and to doe him feal-

ty and ſervice for them, (that is, to be faithfull unto him, and to yeeld him ſome kind of vaſſallage) though no ſuch matter were once mentioned betweene them; Yea at this day, if the King give Lands to any man without expreſſing a tenure, the Donee ſhall not only hold them of him, but he ſhall hold them by the greateſt and heavieſt ſervice, viz. Knights ſervice *in Capite*. But God knowing the heart of man, and ſeeing that man was like thoſe husbandmen in the Goſpell, which having the poſſeſſion of the Vineyard, forgot their Lord of whom they received it; he thought not fit in wiſdome to leave the rights and ſervices due unto him in reſpect of this his ſeignory and donation unto the mutable conſtruction of Law and Reaſon: but hath expreſly declared in his written word in what ſort man ſhall enjoy and hold theſe his infinite benefits. Therefore ſince our owne reaſon hath taught us, that we owe no leſſe unto our earthly benefactors then *Homage*, *Fealty*, & ſome honorary and *ſubſidiary rent* for the Lands and tenements we receive of them; much more effectually muſt the ſame reaſon teach us, that we owe a farre larger proportion of all theſe unto God, of whom beſides our eſſence and creation we have received ſuch innumerable bleſſings.

But as God is a Prince full of all royall munificence and bounty, ſo is he likewiſe of all abundance & riches: therefore he neither needeth nor requireth anything of all that we poſſeſſe, as a ſubſidiary rent wherewith to enrich his coffers, or ſupport his eſtate; but as an honourary tribute towards the magnifying of his goodneſſe, and the expreſſing of our own thankfulneſſe. This, to be ſhort, is the ſum of all religion. Therefore whilſt *David* with admirable ſtrains of divine meditations flieth through the contemplation of all the glorious works of God, and of our duty

to him in reſpect thereof, he breaketh out in every paſſage of his Pſalmes with variety of acclamations and invitations to ſtirre us up to glorify God, not only inwardly by the ſpirit, but outwardly alſo, in, and by, and with all worldly things and meanes whatſoever. And not knowing how or where to containe himſelfe in this his paſſion of moſt bleſſed zeale, he runneth at laſt, as he were wild with it, and cloſeth up his Pſalter, with Pſalme upon Pſalme, ſix or ſeven together, one upon the neck of another, onely to quicken and inforce our ſluggiſh diſpoſition to a worke of ſo great conſequence and neceſſity.

It almoſt carrieth me from my purpoſe; but to returne to my ſelfe, let us ſee in what way we muſt glorify God with theſe externall things that we have thus received from him, and that is, as before we have ſhewed, in the ſame ſteppes that the rules and maximes of his owne law have preſcribed. viz.

Firſt, that we ſhall doe unto him *Homage*, that is, true and faithfull ſervice. For it is written; *Him onely ſhalt thou ſerve.* 1.

Secondly, that we ſhall be faithfull unto him, as becommeth true tenents, that is, not to adhere to his enemies, the world, the fleſh, and the devill, as conſpiring with them, or ſuffering them to ſubtract, or encroach upon any part of that, which belongeth to God our Lord paramount. 2.

Thirdly, that we ſhall pay duely unto him, all rights, and duties, that belong unto his Seignory: for it is written, *Give unto God that that is Gods.* And againe; *Give the Lord the honour due unto his name, &c. Pſal.* 29. 1. 3.

For all which we muſt be accomptants at the great Audit: and there lies a ſpeciall writ of *Præcipe* in that caſe; *Redde rationem villicationis tuæ*, Give an accompt how

thou haſt carried thy ſelfe in this thy buſineſſe, that is, this his ſervice committed to thee.

But omitting to handle the firſt and ſecond of theſe great Reſervations, I have undertaken the laſt, viz. *de reddendis Dei Deo*, of ren dring that unto God that is Gods. And in this I humbly beſeech his bleſſed hand to be with me, and guide me, for whoſe onely ſake and honour I have adventured to leave the ſhore I crept by in my former booke, and now as with full ſailes to launch forth into the deepe, upon ſo dangerous and uncertaine adventure. Amen.

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# Of Tithes.

## Cap. I.

### *What things be due unto God.*

THat that is to be rendred unto God for his honour, out of temporall things granted by him unto man, are by his word declared to be ſome particular portions of the ſame things.

The things granted unto man be of three ſorts, *viz.*

Firſt, the time meaſured out unto him for this life. 1.

Secondly, the place allotted to him for his habitation. 2.

Thirdly, the benefits and bleſſings aſſigned to him for his ſuſtenance. 3.

Out of every of theſe, God muſt have his honorary part, as by way of reſervation and retribution, in right of his ſeignory. Let us then ſee what thoſe parts are, and how they grow due unto him.

Touching the firſt, which is the Time of our life: he hath out thereof reſerved to himſelfe, the ſeaventh part; for it is written, *ſix dayes ſhalt thou labour, and doe all that thou haſt to doe, but the ſeaventh day is the ſabbath of the Lord thy God.* What other time ſoever we imploy privately and particularly in his worſhip, this muſt generally be performed, and kept both by our ſelves and our very cattle, for if *every creature groane with us*, *Rom.* 8. 22. it is alſo juſt, that they rejoyce with us ſometime. But though God be much wronged in this kind, as well as in other his rights, yet ſince it is confeſſed of all parts to be due unto him, by the expreſſe Canon of his word, I will not medle with it any farther: only I deſire that the abuſing of it were ſeverely puniſhed, or at leaſt in ſuch ſort as the Lawes have appointed. 1.

## CAP. II.

*The ſecond kind of tribute that we are to render unto God, i. a portion of our Land.*

THe ſecond thing that God hath given unto man is a place for his reſidence, and that is the earth in generall, and to every nation and family a part thereof in particular. *The earth hath he given to the children of men: Pſal.* 115. 16. But as he reſerved a portion of the time of our life for the celebration of his honour, ſo hath he alſo reſerved a portion out of the place of our reſidence. For in *Ezek.* 45. he commandeth the children of Iſrael, and in them all the nations of the world, that when they come to inhabite the land he giveth them, they muſt divide it into three parts, one for the people, another for the King, but the firſt for God himſelfe. God muſt have *Enetiam partem*, as the Lawyers terme it, the part of the eldeſt, or firſt borne; for the tribe of the *Levi* (that is, his Prieſts and Miniſters) are called to be the firſt borne of his people.

Therefore he ſaith, *When ye ſhall divide the Land for inheritance, ye ſhall offer an oblation to the Lord, an holy portion of the Land. Ezek.* 45. And by and by he declareth how it ſhall be imployed, one part to the building of the houſe of God, and the other part for the Prieſts and Miniſters to dwell on. And this is no Leviticall precept, but an inſtitution of the Law of nature; and in performance of the duty that he was tyed unto by this Law, *Jacob* when he was poore, and had not wherewithall to build God an houſe, yet he ſanctified a portion of ground, (when God had bleſſed him) to that purpoſe, by erecting a ſtone and pouring oyle on the head thereof, calling the place *Bethel*, that

that is, the house of God, and vowing to build it, when God should blesse and make him able to doe it : *Gen.* 28. 22. which as *Josephus* testifieth, *Antiq. lib.* 1. *cap.* 27. he afterwards performed. And as God commanded the whole Nation of the *Israelites* in generall, that in laying out the chiefe City, they should first assigne a place unto God for his Temple & Priests: So likewise he commanded every Tribe thereof in particular, that after they had their portion in the division of the Land, they should likewise out of the same assigne unto the Levites Cities to dwell in, with a circuite, or suburbs of a thousand cubits round about to keepe their cattell in. *Command the children of Israel that they give unto the Levites of the inheritance of their possessions Cities to dwell in : yee shall also give unto the Levites the suburbs of the Cities round about : so they shall have the Cities to dwell in, and the suburbs shall be for their cattell, and for their substance, and for their beasts : And the suburbs of the City, which ye shall give unto the Levites from the wall outward shall be a thousand cubits round about.* Numb. 35. 2, 3, 4.

In execution of this Commandement every Tribe of Israel allotted certaine Cities to the Levites, out of their portion, according to the quantity thereof : as appeareth, *Jos.* 21. 41. The whole Land of promise according as S^t. *Hierom* layeth it out in his Epistle to *Dardanus*, *Tom.* 3. 68. containeth in length from *Dan* to *Bersabe* scarce 160. miles, and in breadth from *Joppa* to *Bethlem* 46. miles. A small portion of ground for a Kingdome so famous ; and so small indeed, as S^t. *Hierom* there saith, that he is ashamed to tell the breadth of it, lest it should give occasion to the heathen to blaspheme, or deride it : yet out of this small territory ( not so much as the principality of Wales with the Marches ) fourty eight walled Cities ( more then are in all England, as I take it ) were assigned onely

onely for their Clergy to dwell upon: their maintenance, and revenues being otherwiſe provided generally through the whole Kingdome by Tithes, oblations, and other devotions of their brethren. So that it is apparent both by the Law of God, and Nature, that God muſt have one portion of our Lands to build him an houſe on, that is, his Churches, and another portion thereof for the habitation of his Levites, that is, his Miniſters.

## CAP. III.

*That the portion of Land aſſigned to God muſt be ſufficient for the habitation of the Miniſter.*

THough the portion of Land, thus to be rendred to God for his Miniſters, be not certaine, yet is it thus farre determined, that it muſt be anſwerable to the neceſſity of the ſervice, and to the number of the Levites; that is, there muſt be Churches ſufficient for the congregations; and habitations ſufficient for the Miniſters and their families to dwell upon, with paſture convenient for their domeſticall cattell. They muſt not be pulled from God with ſecular care, and therefore their maintenance is appointed to ariſe by other meanes then by tilling the Earth; but their habitation as befitteth ſtudents, and men of contemplative life muſt be under their owne command, and ſolitary. But what, ſhould the portion of the fruites of the earth aſſigned them for their maintenance be certaine, as namely the tenth part; and not the portion of Land alſo allotted for their habitation? I anſwer, that as the people encreaſe, ſo alſo the fruite of the earth encreaſeth with them, by their induſtry and labour; and therefore as the Levites encreaſe in number, ſo doe the reſt of the Tribes; and by reaſon thereof there is a greater encreaſe of Tithe toward

toward the maintenance of the Levite: for the labour of ten men yeeldeth more profit then the labour of five. But when the Levites were incloſed within walls, and confined with immutable bounds, this circuite in reaſon could not alwaies be ſufficient for them; And therefore being ſo increaſed as their Cities might not containe them, they muſt of neceſſity have new places of habitation provided for them. For in ſuch caſes God gave a generall rule to the people, *Deut.* 12.19. *Beware that thou forſake not the Levite as long as thou liveſt in the Land.* And the people of the Jewes in this neceſſity did not forſake the Levites, for before the tranſmigration to *Babylon*, (which was about 840. yeares after) the Levitticall Cities (as appeareth, 1 *Chron. cap.* 6. and *cap.* 9. 1. were growne to be about ſixty eight, *viz.* twenty more then were appointed by *Joſua*. They might not enlarge the bounds preſcribed to their Cities, but they might encreaſe the number of the Cities, as the number of the Levites encreaſed, and neceſſity required. The reaſon is, they might not adde houſe to houſe, and field to field, leſt growing great in earthly poſſeſſions they ſhould forget God, who had otherwiſe provided for them, then by manuring the earth; but if they wanted habitations, they might then ſeeke for new Cities, and the care of the people was to provide them for them. One Levite might not have more then ſufficient for his habitation, but if the Cities appointed were not ſufficient to yeeld an habitation for every Levite, then might they aſſigne new Cities to that purpoſe.

## CAP. IV.

### *That Christ releaſed not the portion due to God out of our Lands.*

THe poſſeſſion of Lands is *ex jure humano*, but the earth is the Lords *ex jure divino*. Therefore when he granted the earth to the children of men, and reſerved a portion thereof for his ſervice and Miniſters, this part thus reſerved is in him and his Miniſters *ex jure divino*. In this right Chriſt calleth the Temple the houſe of God, and ſaith alſo, *My houſe ſhall be an houſe of prayer*. And S^t. *Paul* ſaith; *Deſpiſe ye the houſe of God?* So that, doubtleſſe, God muſt have houſes for his ſervice in all places where we inhabite. But Chriſt had not *whereon to lay his head*, *Mat.* 8. 20. *Luke* 9. 18. therefore the Miniſters muſt have no houſes provided for them: for the diſciple is not above his maſter. Chriſt indeed had not whereon to lay his head: for he came to his owne, and his owne received him not. But doth this prove that Miniſters ſhould neither have neſts in the ayre like birds, nor holes in the ground like foxes? Did not he that made the Vineyard in the Goſpell, build a tower in it for them that dreſſed it? So likewiſe muſt the Miniſters that attend upon the Vineyard of the Church, have their habitations in it. S^t. *Paul* appointed it ſo, when he commandeth us to render a portion unto them, ἐν πᾶσιν ἀγαθοῖς, *of all the good things*, *Gal.* 5. 6. How have they a part in all, if they want it, in the chiefeſt of all, that is, in our habitations? Againe he commandeth that they ſhould be *Hoſpitales*, Goodhouskeepers; how ſhould they be ſo, if they have no houſes to keep? *John Baptiſt* lived in the wilderneſſe; it is true, and he was commended for it.

1 Cor. 11. 22.

Chriſt

Chriſt did not ſo, though he frequented the fields, yet in that he gave no Commandement that his diſciples ſhould follow him; for he appointed them to remaine in other mens houſes. What? that they ſhould goe ſojourne where they liſted? The Commandement hath nothing to the contrary; but the meaning is thereby apparent, they muſt have habitations provided for them, or elſe, *ſhake off the duſt of your feet againſt them*, *Mat.* 10.14. as much as to ſay, *let* them be accurſed. So then our Saviour hath not repealed the Law of providing for the Levites, unto his Miniſters: He could not give them Cities to poſſeſſe, for his kingdome was not of this world. But he appointed them to ſuch places, as themſelves ſhould chooſe among the children of the Goſpell. Doeth this differ from the Commandement of providing Cities for the Levites? Doubtles, no: for as the Logitians ſay, *Conveniunt in eodem tertio*. They agree in this, that the Miniſters muſt have habitations provided for them, as well in the Goſpell, as the Levites had under the Law. Oh, but they muſt have no inheritance among their brethren, *for the Lord is their portion*. *Numb.* 18.24. It is true, the Lord hath communicated with them his owne portion, *viz.* his tithes and his offerings, as he did with the Levites; therefore as the Levites had no ſhare in the diviſion of the Land, ſo our Miniſters muſt have no ſhare with us in tilling the Land, & matters of husbandry, for they are called from ſecular cares to ſpirituall contemplation; but after the Iſraelites had their ſhares in the Land they yeelded portions to the Levites for their convenient reſidence, and ſo muſt wee for our Miniſters. And ſo ſtill the concluſion is, they muſt be provided for. Which, to ſhut up the matter, is invincibly ratified by our Saviour himſelfe, who in ſending forth

his disciples would not suffer them to take the least implements of sustenance with them, because he would put them absolutely upon the care and charge of the congregation, alledging a Maxime of the morall Law for warranty thereof, that *the labourer is worthy of his hire.* Mat. 10.10. *And therefore into whose house soever yow enter, stay there.* Mat. 10.11.

## CAP. V.

### *What part in reason, and by direction of Nature might seeme fittest for God.*

It being agreed that some part by the Law of Nature is due unto God out of all the time of our life, and the goods that we possesse, it is now to be examined how far this Law of nature or reason may lead us to the discovery of that part or portion. For which purpose we must for a while lay aside Canonicall Divinity, I mean the Scriptures, and suppose our selves to live in the ages before the Law was given, that is, in the time of nature. And then let us propose this question to the Sages of that world, and see what answer we are like to receive from them. And first touching this question, What portion of our time or goods were fittest for God.

It is like they would have considered the matter in this manner. That God hath not any need either of our time, or goods, and that therefore he requireth them not *in tanto*, that is, to have so much, and no lesse. But on our parts it is our duty to yeeld unto him as much *in quanto* as we can conveniently forbeare over and besides our necessary maintenance. So that as *Bracton* saith of *Hyde*, that tenants are to yeeld unto their Lords, it must be *honorarium Domino*, and not *grave tenenti*, so much as the

the Lord may be honoured by it, and the tenant not oppreſſed; wherein if a ſecond, third, or fourth part be too much, ſo a twentieth or thirtieth ſeem alſo too little. As God therefore deſireth but an honourary part, not a preſſory: ſo reaſon ſhould direct us to give him that part, wherein his own nature with the reſpects aforeſaid is moſt properly expreſſed; for the maxime, or axiome which our Saviour alledged, *Data Deo quæ Dei ſunt*, give unto God the things that are Gods, is grounded on the Morall law originally; and therefore examining among numbers which of them are moſt proper, and reſembling the nature of God, we ſhall finde that *ſeven* and *ten* above all other perform this myſtery, and that therefore they are moſt eſpecially to be choſen thereunto; therefore God in the Creation of the world following the light of nature, choſed the ſeventh part of the age thereof, as *Philo Judæus* in his Book *De fabricatione mundi*, *pag.* 36. hath with ſingular and profound obſervations declared.

And becauſe it may be demanded hereupon, why he ſhould not by the ſame reaſon have the ſeventh part of our goods alſo; I anſwer, that as touching the time of our life, he giveth that unto us of his own bounty, meerly without any induſtry on our part: ſo that whether we ſleep, or wake, labour, or play, the allowance thereof that he maketh unto us, runneth on of its own accord; and therefore we owe him the greater retribution out thereof, as having it without labour or charge. But as for the fruits of the earth we have them partly by our own labour, though chiefly by his bounty; and therefore he therein requireth his part, as it were with deduction or allowance of our charges, ſeeking another number befitting the ſame.

The firſt place in Scripture wherein a Prieſt is mentioned is *Gen.*14. 18. where *Melchiſedek* is ſaid to be *the Prieſt of the moſt high God*; there alſo are tithes ſpoken of, and paid unto him, *v.* 20. *Abraham gave him tithes of all.*

The firſt place alſo, where an Houſe of God, or Church, is ſpoken of, is *Gen.* 28. 18, *&* 22. there alſo are tithes mentioned and vowed unto God, even by that very name whereby Pariſh Churches upon their firſt Inſtitution in the Primitive Church were alſo ſtyled, that is, by the name of *Tituli*, *Gen.*28.22. *Lapis iſte quem poſui in titulum erit Domus Dei, & omne quod dederis mihi decimas prorſus dabo tibi*; wherein it ſeemeth the Primitive Church at that time followed the tranſlation then in uſe: for *Damaſus* in the life of *Euariſtus* Biſhop of *Rome*, *Anno* 112. ſaith, *Hic titulos in urbe Roma diviſit Presbyteris*, *Tom. Concil.* 1. *pag.* 106. And ſpeaking after of *Dionyſius*, who lived *Anno* 260. he ſaith, *—Presbyteris Eccleſias diviſit, & cæmeteria, Parochiaſque & Diæceſes conſtituit. Tom. Concil.* 1. *pag.* 206. Thus Church and Tithe went together in their firſt Inſtitution.

Edit.1606.

If there be no mention after of Tithes in the Scripture till the time of *Moſes*, that is no reaſon to exclude them, for ſo alſo is there not of any Houſe of God, or Prieſt: yet no man will deny, but both are neceſſary, and therefore let them alſo ſay, whether they be *ex Jure divino*; I mean Churches and Prieſts before the Law and Goſpel.

CAP.

## Cap. VI.

*Concerning the Revenue and maintenance of the Church in her infancy, firſt in Chriſts time, then in the Apoſtles, by a communion of all things, and ſubmitting all to the Apoſtles; as in the Churches of* Jeruſalem, Alexandria, Rome, *and* Africa. *How the Clergy had their allowance given them, weekly, or monethly,* per ſportulas, *in baskets.* De jure ſportularum, *concerning thoſe baskets and the manner of them. When Lands were firſt given. The Church goods diſtributed by the Biſhops and Officers under them. The liberality of* Conſtantine *and other Emperors. The piety and charity of the Clergy in ſpending their goods and means.*

WHileſt the Church was in her foundation, ſhee had no other maintenance, then the poor private purſe of our Saviour, ſupported onely by the almes and contribution of his poor Diſciples and followers; for as himſelf had no houſe to live in, ſo had he no rents to live on: being therefore often in want, he was conſtrained ſometimes to uſe the power of his Godhead to ſupply the neceſſities of his Manhood, and to call the fiſh of the ſea to aid him with money miraculouſly, *Mat.*17.27. while the beaſts of the Land withheld their devotion from him unnaturally; but whatſoever it was that his Godhead bleſſed his Manhood withall, he divided it, as appeareth in the Goſpel of Saint *John*, 13. 29. into two parts; one for the ſuſtenance of his family, the other for relief of the poor. Touching the part aſſigned to his family, it was not curious, nor ſuperfluous, no not at the great feaſt of *Eaſter*, when others were ſo ſumptuous, and profuſe, his rule Joh.12.6.

was then, to buy the things they had need of. And touching the proviſion of his houſe at other times, we have twice an Inventory taken of it, once in *Matth.* 14. 17. where it was found to be but five loaves and two fiſhes; yea, barly loaves: another time, *Mat.* 15. 34. but ſeven loaves and a few little fiſhes, for himſelf and his whole houſhold, twelve Apoſtles in ordinary, beſides ſome ſervants, and a multitude of Diſciples hanging upon him extraordinarily. All the beaſts of the foreſt were his, and ſo were the cattell upon a thouſand hils, yet read we not that he once killed ſo much as a Calfe, for the proviſion of his family: for fleſh could not be had but for money, and money going always low with him, he uſed ſuch kinde of victuals eſpecially, as might always be ſupplyed unto him by the induſtry of his Diſciples from the common ſtorehouſe of nature, the ſea, without being beholding or burdenſome to any man.

Mar. 6. 38. Luk. 9. 13. Joh. 6. 9.

In this frugality lived our Saviour touching his houſhold expence, that there might be the greater remanet for the poor: and from this modell of the Church in his poor family, was the great frame of the Univerſall Church firſt deviſed, as well for raiſing, as diſpoſing of her Revenues; the means of raiſing them, from the oblations and devotion of the people: the manner of employment of them, for the neceſſity onely of the Miniſter and poor. Thus much doth *Auguſtine* alſo declare upon the place alledged out of Saint *John*, *Tractat.* 62. *Habebat Dominus loculos, &c.* Our Lord had his treaſury or bagge, wherein he kept the things that were offered by the faithfull, and did diſtribute them to his family and ſuch other as had need: then firſt was the form of Church government inſtituted.

Dist. 12. 9. 1. *Habebat.*

The Apoſtles following our Saviour exactly, would

not

not be rich ſervants of a poor maſter, nor owners of any thing, when their Lord himſelf poſſeſſed nothing: holding it therefore not fit for them, *aut in imis conſiſtere, ſed nec in mediis*, they reached at the higheſt garland of perfection: and becauſe their maſter had ſaid, *Let him that will be perfect, ſell all that he hath, and give to the poor*; whatſoever was their own, and whatſoever was given them by others, they caſt it all into the common treaſury, diſpoſing it by their maſters example to two uſes onely, Hoſpitality and Alms, or works of charity; in their hoſpitality they provided for the whole family of the Church then living with them at *Jeruſalem*, (out of which aroſe the great buſineſſe of ſerving the Tables, ſpoken of in the *Acts*) all of them jointly caring for every man in particular, and every man particularly applying himſelf to ſupport the generall. Their alms and part aſſigned to them in neceſſity, they diſperſed fully and faithfully, not onely to the poor of their own Town, City, or Countrey, but whereſoever through the world the members of Chriſt had need.

And ſo carefull they were in employing theſe things to the higheſt benefit and honour of the church, that *Paul* chuſed rather to live in want, and earn his ſuſtenance with his fingers, then to diminiſh this bleſſed portion, by taking his due ſhare out of it. Yea, the only thing that the Apoſtles gave ſo preciſely in charge one unto the other, was in every paſſage, *that they ſhould remember the poor*, *Gal.* 2. 10. *Act.* 11. 36. 2 *Cor.* 9. 3. as the bowels of Chriſt, the darlings of the Church, and thoſe whom God eſpecially had choſen to be rich in faith, and heirs of the kingdome, *Jam.* 2. 5.

With this mortar (I mean this bleſſed theologicall work of charity, which S. *Paul* ſo highly extolleth above

all other) did our Saviour lay the firſt ſtones in the foundation of his Church, and with it (to hold uniformity) did the Apoſtles build the ſecond courſe, commending the pattern to be for ever after purſued throughout all ages: for whatſoever is built without it, is like ſtones laid without mortar, which cannot therefore couple together, and grow into an holy Temple in the Lord, as is required, *Eph.*2.21.

In the ſucceeding Church founded by Saint *Mark*, (the Diſciple of Saint *Peter*) at *Alexandria* in *Egypt*, the ſame rule (uſed before by the Apoſtles at *Jeruſalem*) was ſo preciſely eſtabliſhed, that he thereby drew all Chriſtians to follow his example; inſomuch that *Philo Judæus*, a famous Author of that time, reporteth that not onely there, but in many other Provinces the Chriſtians lived together in ſocieties, and he calleth even then their habitations μοναστήρια, Monaſteries: ſaying, that none among them poſſeſſed any thing to his private uſe; no man was rich, no man poor, but all divided their ſubſtance to them in neceſſity; diſpoſing themſelves wholly to Prayer, ſinging of Pſalms, to matter of doctrine, and to temperance.

*Hieron. in vita Marci.*

ἐγκρατεία i.e. *temperantia, continentia, modeſtia.*

Come lower down. *Dionyſius Corinthius* in an Epiſtle to *Soter* Biſhop of *Rome*, in the year of Chriſt, 170. congratulateth with him, that the Church of *Rome* ſtill continued her ancient uſe in diſperſing her goods in works of charity. *It is now growne to be an ancient cuſtome with you, to beſtow many beneſits upon all the brethren of the Church, and to ſend maintenance to the Churches in every City: ſo that thereby you doe not onely relieve the neceſsity of the poor, but of the brethren alſo which are condemned to the ſlavery of the metall Mynes, and by this benevolence of yours, which now you have uſed to ſend into all places, even from the*

*the first Plantation of your Church, your selves being* Romans, *have diligently preserved the* Romans *custome instituted by the Fathers: which also your Bishop, the blessed* Soter, *hath hitherto kept very diligently; and by his laborious industry wonderfully advanced: not onely in distributing lovingly unto the Saints the goods ordained to their maintenance: but like a mercifull and milde father towards his children, in exhorting the brethren (which come unto him) to vertue by blessed and devout perswasions.* I report this place at large, for that this use continued exactly in the Church, as *Eusebius* reciting it affirmeth, till the great persecution under *Maximinian*, and *Diocleſian*, which began about the year of our Lord, 304.) being the age wherein *Eusebius* himself lived, as he there also testifieth, *lib.4. cap.22.*

And that it was not thus in *Rome* onely, but in *Africa* and other Churches, it appeareth plainly by *Tertullian in Apologet. cap.39.* where upbraiding the *Gentiles* with the piety and devotion of Christians, he saith, *Etiam si quid arcæ genus est, &c.* whatsoever we have in the treasury of our Churches is not raised by taxation, as though we put men to ransome their Religion; but every man that will, once a moneth, or when it pleaseth himself, bestoweth what he thinks good, and not without he listeth; for no man is compelled, but left freely to his own discretion. That which is given, is accounted as *Depositum pietatis*, the pledge of devotion; for it is not bestowed in banqueting, quaffing, or gluttony, but in nourishing and burying the poor, and upon children destitute both of parents and maintenance, aged and feeble persons, men wracked by sea, and such as are damned to the metall mines, banished into Islands, or cast into prison, professing the true God, and the Christian faith.

I might thus paſſe over the firſt 300. years of the Church, but I deſire to make it more apparent how the Clergy of thoſe times lived as well for converſation, as for maintenance. The times (to tell the truth) were ſuch as had not been from the very creation: Times wherein God opened the windows of perſecution, and rained bloud upon his Church, as he did water upon the world in the days of *Noah*; and as in the planting of the Law, he ſcourged the enemies of his people with ten famous plagues, ſo now in the founding of the Goſpel he tried his children with ten grievous perſecutions; by reaſon whereof the Clergy then aſpired ſo generally to the crown of martyrdome, that they prepared their bodies to this ſacrifice by the auſtereſt rules of converſation that they could deviſe, contemning all worldly pleaſure, all curioſity of meat, drinke, apparel, ſuſtenance and neceſſities, waſting their fleſh with abſtinence, faſting, thin cloathing, going ſometimes barefoot, denying all things to every ſenſe, that it particularly delighted in, applying themſelves wholly to Prayer and Preaching, to ſupport and enlarge the Goſpel; and to be ſhort, to doe the work of Gods Vineyard faithfully in all things and laborioufly, as appeareth abundantly in *Euſebius*, *Nicephorus*, *Socrates*, *Ruffinus*, and other ancient Eccleſiaſticall Authors. Theſe are they of whom the world was not worthy, theſe gained every man his ten talents, and ſit now in the firſt ſeats of heaven, next unto the throne of the Lamb.

Touching their maintenance, the means thereof ariſe chiefly (as appeareth by *Tertullian*, *Origen*, *Cyprian*, and others) out of the oblations of the people, benevolences, firſt-fruits, tithes, &c. which being continually offered at the Altar, or brought into the treaſury of the

Church,

Church, were one while employed in common to the diet and neceſſities of the brethren and Clergy, but at length diſtributed by portions, firſt, weekly, as it ſeemeth by a decree of *Pius* the firſt, Biſhop of *Rome*, in the year of our Lord, 158. after monthly, as appeareth by an Epiſtle of *Cyprian ad clerum, lib.* 4. *Epiſt.* 5. to every Prieſt particularly. The manner how this was performed, appeareth not ſufficiently in the Authors of thoſe times; but I will recite the places in their own obſcurities; firſt, touching that aſſigned to *Pius*, *Tom. Con.* 1. *pag.* 125. *Col.* 6. *Vt de oblationibus quæ offeruntur à populo, & conſecrationibus quæ ſuperſunt, vel de panibus, quos deferunt fideles ad eccleſiam, vel certè de ſuis: Presbyter convenienter partes inciſas habeat in vaſe nitido, & convenienti, ut poſt miſſarum ſolennia, qui communicare non fuerunt parati, Eulogias omni die Dominico, & in diebus feſtis exinde accipiant, quæ cum benedictione prius faciat.* Ex codice quinto librorum, lib. 2. c. 117. *In vita Pii.*

And *Cyprian* in the place above cited, *p.* 126. *Cæterum Presbyterii honorem deſignaſſe nos illis jam ſciatis, ut et ſportulis iiſdem cum Presbtyeris honorentur, & diviſiones menſuræ æqualis quantitatibus partiantur:* whereby it appeareth that the Prieſts at this time (which was about the year 240.) had every man his allowance delivered monthly *per ſportulas*; that is, by baskets, whereupon they were called *fratres ſportulantes*, basket-brethren, or brethren that lived on the basket; and it may be that ſome underſtanding the words, as we now uſe them for an alms basket, could be contented that the Miniſters lived in like manner at this day. To deliver therefore that ſacred and moſt honourable profeſſion from ſuch baſe imputation, I hold it neceſſary to ſay ſomething of this *jus ſportularum.*

*Sportula*, is ſometimes uſed generally for every basket, ſometimes particularly for a Market basket, or panyer, and becauſe the uſe among the *Romans* was to caſt their Market money into this basket, therefore that very mony, and the Market meat it ſelf alſo was called *ſportula*.

Beſides it is taken for a veſſell, a place, a portion, or proviſion of victuals.

So *Sportula Salutatoria*, or *Salutantium*, was a basket, or meſſe of meat that the great men of *Rome* by way of congratulation doe give to the Cities which came to viſit them. *Martial. lib.* 1. *Ep. ad Flaccum.*

*Dat Bajana mihi quadrantes ſportula centum,*
*Inter delicias quid facit iſta fames?*

And theſe great men had at the entry of their houſes a place of purpoſe for keeping this kind of proviſion, to beſtow on their friends; which place was thereupon alſo called *ſportula*, which *Iuvenal* ſeemeth to aim at under the name of *limen primum*, *Satyr.* 1. ----*Sportula primo*
*Limine parva ſedet, turbæ rapienda togatæ.*

But expreſly in his third *Satyr.*

*Nonne vides quanto celebratur ſportula fumo?*

*Sportula publica*, was a like diſtribution made upon ſome notable occaſion by the Senate and Emperors of *Rome*, to the people in lieu of the ſolemn feaſtings formerly beſtowed on them: which allowances being afterwards too niggardly abridged, *Domitian* (as *Suetonius* in his life, *cap.* 7. reporteth) *ſportulas publicas ſuſtulit, revocata cænarum rectarum conſuetudine*, which *Martial* alſo remembreth in an Epigram to *Domitian l.* 8.

*Grandia pollicitus quanto majora dediſti?*
*Promiſſa eſt nobis ſportula, Recta data eſt.*

*Sportula nuptialis*, ſignified the wedding feaſt or proviſion;

viſion; *Cælius Rhodiginus Antiq. lect. l.* 28. *c.* 24. *apud Apuleium ſportulas legimus nuptiales, quippe (inquit) ita placuerat, inſuburbana villa potius ut conjungeremur, ne cives denuò ad ſportulam convolarent.*

*Sportula convivalis* is deſcribed alſo by *Cælius, lib.* 27. *cap.*24. *Eranon (inquit eſt) quod pluribus differtum occumbentibus ſit; ſed ita ut ferat ſibi unuſquiſque quod edat, quod etiam* ἀπὸ ἀσπυίδος, *dicebatur, id eſt, ſportula. Sportula opipara,* I may tearm that which is mentioned by *Tully* in his Epiſtles, *Famil. lib.* 9. *Ep.*20. *Dediſcendæ tibi ſunt ſportellæ & artologani*, where ſome interpret *ſportellæ*, for thoſe meats, *quæ ſecundis menſis numerantur*, diſhes of the ſecond courſe, and greateſt dainties.

So that *ſportula presbyteria* was no baſe thing, but an honourable congiary, or portion of victuals diſtributed to the Clergy, whether by the basket, as the word ſignifieth, or *in vaſe nitido*, as *Pius* appointed it; And thus much doth the very place alledged out of *Cyprian* intreat, where he ſaith, *ſportulis idem cum presbyteris honorentur.*

What this *ſportula* contained I cannot declare, but *Alexand. ab Alexand. Genial. dier. lib.* 5. *cap.* 24. ſpeaking of the *Roman ſportula publica* ſaith, *In qua frequens obſonium panis, oleum, & porcina caro dari ſolita eſt, abſq; vino*; and *Domitius* in his Comment. on the firſt *Satyr.* of *Iuvenal*, much more fully, *ex ſportula omnia ſibi coemebant, quæ & ad victum & ad cultum pertinerent.* So that, *ſportula presbyteria*, ſeemeth to be then a *Cornu copia*, that miniſtred unto the Clergy all things they had need of, as well for cloathing, and other neceſſaries, as for ſuſtenance. For no doubt the people of God did at this time, not onely according to the precept of the Apoſtle, make the Miniſters of the Word partakers of all

all their goods; but as *Abraham* did alſo to *Melchiſedek* preſent unto them, τὰ ἀκροθίνια, the very top and chiefeſt part thereof, following *Abraham* in offering the fat, and abhorring to give the carrion things unto God, like the ſacrifice of *Cain*.

And that it may be no diſgrace to the honourable Miniſters of the Church to live thus, *ex ſportula*, let me note by the way that the Kings and Princes of the world are likewiſe ſaid to live *ex ſportula*; for their Exchequer or Treaſury hath thereupon the name of *Fiſcus*: which word as appeareth by *Aſcanius*, is all one with *ſportula*. *Fiſci, fiſcinæ, fiſcellæ* (ſaith he) *ſportea ſunt utenſilia ad majoris ſummæ pecunias capiendas, unde quia major ſumma eſt pecuniæ publicæ quàm privatæ, factum eſt ut fiſcus pro pecunia publica & inde confiſcare dicatur*; a little before he ſaith, *Sportæ, ſportulæ, ſportellæ, munerum ſunt receptacula*; And let me alſo remember that in the Eaſterne Empire, the Maſter of the Store-houſe and Wardrobe, as well Palatine, as Eccleſiaſtical, was called, ὁ χαρτοφύλαξ, and μαγιστροφύλαξ ὁ χαρτοφύλαξ, that is, a *Caniſtro*, vel *Sportula*.

*Strigelius in leg. lib. 2. pag. 307.*

*Codin. p. 5. Suidas.*

Touching Lands, though the Churches at this time had little, yet were they not altogether without any, as appeareth partly by that which *Euſebius* reporteth of *Paulus Samoſatenus*, that under *Aurelian* the Emperour (*i. e.* about the yeare 274.) he wrongfully invaded an houſe belonging to the Church of *Antioch*. But more amply by the edict of *Licinius*, and *Conſtantine*, where it is expreſly commanded that all Lands and places which belonged to the Chriſtians, as well for their publique uſe, as in their private poſſeſſion, that had been taken from them in the perſecution of *Diocleſian*, ſhould be reſtored to them. *Platina* ſaith, that *Vrbane* Biſhop of *Rome*,

*Apud Euſeb. l. 10. ca. 5.*

*Rome, anno* 227. firſt inſtituted, that the Church might receive Lands and poſſeſſions offered by the faithfull, and then ſheweth to what end ſhe might enjoy them, namely, that the Revenues thereof ſhould be diſtributed by portions to every man, and that no man ſhould have them to his particular benefit. *Vrbane* himſelf in the Decretall Epiſtle attributed unto him, affirmeth this uſage to be more ancient, ſaying alſo, that the Biſhops within their Dioceſe, and other faithfull perſons (appointed by them) both did and ought to diſtribute theſe Revenues in manner before mentioned; adding further that they were called the oblations of the faithfull, for that they were offered unto God, and that they ought not to be otherwiſe employed then to Eccleſiaſticall uſes, the relief of Chriſtian brethren, living together in common, and of the poor people; for that they are the vows of the faithfull, the price of ſin, the patrimony of the poor, and delivered over unto the Lord for the performance of this work. Many account this Epiſtle Apocryphall, I will therefore ſtrengthen it with the opinion of *Origen* a Father of thoſe times, who in his 16. Homily upon *Geneſis*, diſputeth it to be utterly unlawfull for the Miniſters of the Goſpel to poſſeſſe any Lands, (to their own uſe, for ſo I underſtand him) confeſſing himſelf not to be faultleſſe herein; and therefore exhorting others to joyn with him in Reformation thereof, he ſaith, *Feſtinemus tranſire à ſacerdotibus Pharaonis*, let us make haſte to depart from the Prieſts of *Pharaoh*, who enjoy earthly poſſeſſions, to the Prieſts of the Lord, who have no portion in earth, for that the Lord is their portion, *fol.* 26. *col.* 3. And to ſhew to what end the Church enjoyeth her goods, and in what manner they ought to be divided amongſt her

Miniſters and poor children, in his 31. Homily upon *Matthew* he ſaith—*Opus habemus ut fideles ſimus pariter & prudentes ad diſpenſandos eccleſiæ reditus, &c.* It behoveth us to be faithfull in diſpoſing the rents of the Church. *Faithfull*, that we our ſelves devour not thoſe things which belong unto the widows, and that we be mindfull of the poor; and becauſe it is written, *The Lord* 1 Cor. 9. 14. *hath appointed that they which preach the Goſpel, ſhould live of the Goſpel*; that we therefore take not occaſion to ſeek more for our ſelves then our ſimple diet, and neceſſary apparell: retaining a greater portion to our ſelves then that we give to the brethren that are hungry and thirſty, and naked, and which ſuffer neceſſity in ſecular affairs. *Diſcreet:* as to miniſter to every man his portion, according to his rank and dignity; remembring that which is ſaid, *Bleſſed is he which conſidereth the poor and needy, Pſal.* 41. for it is not ſufficient for us, ſimply to give away the goods of the Church; ſo to keep our ſelves clear from devouring or ſtealing of them, but we muſt wiſely conſider every mans neceſſity; how he falleth into it, what his dignity is, how he came by it, how much he needeth, and for what cauſe he needeth it. We muſt not therefore deal alike with them which were pincht, and hardly brought up in their infancy, and with them who being nouriſhed delicately and plentifully are now fallen into neceſſity. Neither muſt we miniſter the ſame things to men and to women, nor like quantity to old men, and young men; nor to ſickly young men that are not able to earn their living, and thoſe wch have ſomwhat of their own to maintain themſelves withall. It muſt alſo be conſidered whether they have many children; and whether thoſe children be idle, or induſtrious; and how far forth they are inſufficient

to

to provide for themſelves: to bee ſhort, there is great wiſdome required in him that would well diſpoſe the Revenues of the Church, and that by being a faithfull and diſcreet diſpoſer hee may become an happy man. Thus far *Origen*; to which purpoſe *Cyprian* alſo in his Epiſtle to *Eucratius*, *lib.* 1. *Epiſt.* 10. ſheweth that the Church maintained many poor, and that her own diet was *frugalioribus & innocentibus cibis*, ſparing and plain, and all her expence, *ſumptibus parcioribus quidem ſed ſalutaribus*, full of frugality, but ſufficient for health.

The perſons by whom this diſtribution of Church goods was made, were chiefly the Biſhops (as appeareth by the former Epiſtle of *Vrbane*) and Deacons appointed under them as in the times of the Apoſtles, *Acts* 6. Therefore *Origen* in his 16. Homily upon *Matthew*, *fol.* 31. *col.* 4. taxing the unfaithfull Deacons ſaith, *Diaconi autem, &c.* But the Deacons which govern not well the tables of the Eccleſiaſticall money, (that is, the goods and Revenues of the Church) but doe always purloin them, not diſtributing that which they give according unto judgement; and ſo become rich by that which belongeth unto the poor; they are the Exchangers whoſe Tables Chriſt will overthrow. For the Apoſtles in their Acts teach us, that the Deacons are Governours of the Tables of Eccleſiaſticall moneys, (or Revenues) &c. and again after, --*unuſquiſque diaconorum*. Every one of the Deacons which gather wealth to themſelves by defrauding the poor, let them now ſo underſtand this Scripture, that they gather no more, leſt the Lord commeth upon them, and overthrow the Tables of their diſtribution.

Thus much touching the uſe of Church goods in the firſt age of the Church, or firſt 300. yeers of Chriſt:

whereby it plainly appeareth, that no Eccleſiaſticall perſon enjoyed any thing belonging to the Church to his own benefit; but that the Church-men had out of the Revenues and goods of the Church, ſo much onely as ſufficed for their neceſſary maintenance in meat, drink, cloth, and ſuch like: the ſurpluſage being faithfully employed to the relief of the poor, the needy, the widows, perſons baniſhed for Religion, or impriſoned, Captives, and Chriſtians any way diſtreſſed. So that the Church expoſing all this while the dugs of her piety unto others, did live her ſelf on thiſtles, and thorns, that is, in want, neceſſity, and profeſſed poverty.

When the flood of perſecution had prevailed as many years againſt the Church in the time of the Goſpel, as that of waters did days againſt the wicked in the time of *Noah*; and that *Conſtantine* like the Dove of the Ark had brought the olive branch of peace unto the people of God: the Church then began to ſmell the ſweet ſavour of reſt, and changing preſently her diſpoſition with her fortune, changed alſo the very policy of her government: before in poverty, now in riches; before a ſervant, now a Miſtreſſe; before a Captive, now a Conquerour. For the noble *Conſtantine* being miraculouſly converted to the faith, did not onely free her from perſecution, but ſetled her alſo in the very boſome of peace, raiſed her to honours, endowed her with poſſeſſions, eſtabliſhed her with immunities; and to be ſhort, poured upon her the fulneſſe of his regall munificence. Inſomuch, that many prudent Fathers foreſeeing then another evill likely to proceed from hence; as namely, that her plenty might make her wanton, and forgetfull of her duty, began now to diſpute whether it were lawfull for her to accept lands and Temporalties, or not:

Some alledged that the examples of our Saviour and his Apoſtles bound them to contemn the world, and to live in a ſtrict and Stoick kind of poverty. Others conceived that courſe to be but temporall, and like a medicinall diet preſcribed by Phyſitians to their patients in ſickneſſe onely, not in health: affirming the time to be now come, when it pleaſed God to crown the long-ſuffering of his Church, with the bleſſings promiſed in the tenth of *Mark*, *v.*29. 31. *That ſince they had forſaken houſe, and brethren, and ſiſters, and father, and mother, and wife, and children, and lands for Chriſts ſake and the Goſpel; they ſhould receive an hundred fold now at this preſent, with their perſecutions, and in the world to come eternall life.* I will not argue this point, but letting paſſe the School-men, will reſt my ſelf upon the determination of many ancient Councels, Fathers, and Doctors of the Church, who with one conſent conclude affirmatively, that the Church may hold them.

And I think their opinion to be of God, for that it hath prevailed theſe 1500. years againſt all the enemies thereof, though the Kytes of Satan have pulled many a plume from it.

To return to *Conſtantine*; though he and others by his example did abundantly enrich the Church, yet did not the Church-men take theſe riches to the benefit of themſelves, and their families, but employed them as before to workes of charity. Yea, *Silveſter* himſelfe, though the ſea of theſe things flowed into his boſome, and were at his pleaſure, yet took he as ſparingly of them, as if he had been but a little pitcher, ſuffering the whole ſtreams thereof to run abundantly amongſt the children of the church, and poor people, as did alſo the other Fathers, Prieſts, and Clergy of that time, who

reckoned not otherwiſe of riches then as dung, which being ſpread and ſcattered in the fields of God, might make them the more fertile. For the reſolution then was (as in the age before) that no Church-man might take Lands to his private uſe, nor the Church her ſelf otherwiſe then for works of charity, and the neceſſary ſuſtenance of her Miniſters, not to make ſtocks or portions for them in earth, whoſe inheritance was in heaven, and that had God himſelf for their portion. Therefore *Proſper* a godly Father of that time, whoſe authority is often uſed in the Councel of *Aquiſgrane*, diſputing the point, concludeth it thus; If every Miniſter of the Church have not a Living, the Church doth not provide one for him in this world, but helpeth him with things neceſſary, that he may receive the reward of his labour in the world to come, reſting in this life upon the promiſe of our Saviour. To which purpoſe he applieth the place in the 1 *Cor.* 9. 14. What is it to live of the Goſpel, but that the labourer ſhould receive his neceſſaries from the place wherein he laboureth? And a little before him, *Hierome* alſo in his Book *De vita Monach. Cler. inſtituenda*-- ſaith, If I be the Lords part and the lot of his inheritance, not having a part amongſt the reſt of the Tribes; but as a Levite and Prieſt doe live of tithes, and ſerving at the Altar, am ſuſtained by the offerings of the Altar: having victuals and cloathing, I will be contented herewith, and being otherwiſe naked, will follow the naked croſſe. So in his Book *De Co. virginitatis*, having reproved the curioſity of ſome Clerks of that time, he ſaith alſo, *Habentes victum & veſtitum his contenti ſumus:* for as *Ambroſe* ſaith upon *Eſay* 1. *Tom.* 2. *In officio clericatus lucrum non pecuniarum, ſed acquiritur animarum.* In the function of a Clergy-

*Lib. 21. de vita Contemplativa.*

*Epiſt. ad Nepotianum.*

Clegy-man the gain of mony is not to be ſought, but the gain of ſouls.

All theſe are but particular opinions of ſome Weſtern Fathers: hear now therefore the determination of the Eaſtern church aſſembled in the Councell of *Antioch*, *Anno* 340. *cap.* 25. *Epiſcopus Eccleſiaſticarum rerum habeat poteſtatem, ad diſpenſandum erga omnes qui indigent, cum ſumma reverentia, & timore Dei; participet autem & ipſe, quibus indiget, tam in ſuis, quàm in fratrum qui ab eo ſuſcipiuntur, neceſſariis uſibus, profuturis, ita ut in nullo qualibet occaſione fraudentur, juxta ſanctum Apoſtolum ſic dicentem, Habentes victum & tegumentum his contenti ſumus. Quòd ſi contentus iſtis minime fuerit, convertat autem res eccleſiæ in ſuos uſus domeſticos, & ejus commoda vel agrorum fructus, non cum Presbyterorum conſcientia, diaconorumque pertractet, ſed horum poteſtatem domeſticis ſuis, aut propinquis, aut fratribus, filiiſque committat, ut per hujuſmodi perſonas occultè cæteræ lædantur eccleſiæ, Synodo provinciæ pœnas iſte perſolvat. Si autem & aliter accuſetur Epiſcopus, aut Presbyteri, qui cum ipſo ſunt, quòd ea quæ pertinent ad eccleſiam, vel ex agris, vel ex alia qualibet Eccleſiaſtica facultate ſibimet uſurpent, ita ut ex hoc afligantur quidem pauperes, criminationi verò, & blaſphemiis tam ſermo prædicationis, quàm hi qui diſpenſant, taliter exponantur, & hos oportet corrigi, ſancta Synodo, id quod condecet, approbante.*

*Proſper* proceedeth further, and will not ſuffer that a Miniſter able to live of himſelf ſhould participate any thing of Church goods. *Nec illi qui ſua poſſidentes, &c.* For ſaith he, *They which have of their own, and yet deſire to have ſomewhat given them of that whereon the poor ſhould live, doe not receive it without great ſinne. The holy Ghoſt ſpeaking of Clerks (or Clergy-men) ſaith*, They eat the

the ſins of my people. *But as they which have nothing of their own, receive the food they have need of, and not the ſins: ſo they which have of their own receive not the food (which they abound with) but the ſins of other men.*

Therefore though the Councell of *Antioch*, *An.* 340. *Can.*25. ordained that the Biſhops might diſtribute the Church goods, yet would it not ſuffer them to take any portion thereof to the uſe of themſelves, or of the Prieſts and brethren that lived with them, unleſſe neceſſity did juſtly require it, uſing the words of the Apoſtle, 1 *Tim.*6.8. *habentes victum & tegumentum his contenti ſumus*; having food and raiment let us be therewith contented. And decreed further, that if the Biſhops ſhould not be ſatisfied, but did employ any goods of the Church, to their kindred, brethren, or children, they ſhould anſwer it at the next Synod. So likewiſe touching Prieſts, as the words ſubſequent imply: and as *Achilles Statius* expoundeth it, *pag.* 14. for the Prieſts at that time had nothing but by the aſſignment of the Biſhops: and if the Biſhops themſelves might take no more then onely for their neceſſity, we may eaſily judge what the inferiour Clergy might doe.

But *Gregory* looking upon 2 *Theſſ.*3.7, 8. where it is ſaid, *You ought to follow us, we take no bread of any man for nought; and that he which will not work, ſhould not eat:* applieth theſe to the Clergy, and concludeth that though ſuch kind of Miniſters have never ſo much need, yet they muſt not participate the food of their function or Church Revenues; for ſaith he, *Penſemus cujus damnationis ſit, &c.* let us think with our ſelves how great damnation it is to receive the reward of labour without labour. Behold, we (the Clergy) live of the oblations of the faithfull; but what? doe we labour to get the goods

goods and cattell of the faithfull? doe we take thoſe things for our wages which the faithfull have offered for the redemption of their ſins; and doe we not earneſtly labour as we ought to doe, againſt thoſe ſins, by induſtry of prayer and preaching?

For the next Ages of the church, what the Authour intended further will bee ſupplied by himſelfe in the 20. chap. following, collecting out of divers Councels ſeverall canons touching tithes: but for our owne church of *England* he doth abundantly expreſſe himſelf in his firſt *Tome* of our Engliſh Councels; out of which ſee the collections here following, *cap.* 27. and much alſo may be obſerved out of Mr *Selden* in his Hiſtory, *c.6.* where he ſheweth when Tithes began to be commanded by Laws and Synods, and withall giveth the reaſon out of *Agobardus* a very learned Biſhop of *Lions* (as he truly ſaith of him) why Councels did not at firſt make canons touching Tithes and gifts to the church: which *Agobardus* ſpeaketh touching generall Councels; but Provinciall Councels did frequently command them, as will appear by the collections following here, *cap.*20. *Agobardus* words are conſiderable, in his Book *De diſpenſatione contra ſacrilegos*, p.176. *Jam verò de donandis rebus & ordinandis eccleſiis, nihil unquam in Synodis conſtitutum eſt, nihil à ſanctis patribus publicè prædicatum: nulla enim compulit neceſſitas, fervente ubique religioſa devotione, & amore illuſtrandi eccleſias ultro æſtuante, &c.* Note.

Concerning giving of goods, and endowing of churches, nothing hath ever been decreed in Councels, nothing publickly promulgated by the holy Fathers, for no neceſſity required it, the religious devotion, and love of beautifying the churches every where

abounding of their owne accord. At firſt religious
Acts 4.34,35. chriſtians ſold all their lands, goods, houſes, and poſſeſſions, laying down the money at the Apoſtles feet, *Acts* 2.45. and long after the Apoſtles time devotion and zeal in this kind was ſo fervent, that there was no need of laws, but when this zeal began to waxe cold in the next Ages following, then laws and canons were made more carefully for Tithes and maintenance.

Many Kings and Princes alſo were ſo pious and carefull, that the full tenth ſhould be paid, that they made ſeverall lawes to pay a ninth part, that ſo they might bee ſure to pay more rather then leſſe then a tenth: *Ex propenſiori in Deum animo ultra decimas, nonas dabant pii:* As this Authour proveth by very many laws alledged in his learned Gloſſary, which ſhall be produced in due place and time: and *cap.* 11. here following prudently obſerveth: How many things in the beginning both of the Law and Goſpel, were admitted, and omitted for the preſent, and reformed afterward: for when the Law was given, the wheels thereof could not preſently fall into their courſe; and ſo likewiſe in the New Teſtament, the Apoſtles themſelves are compelled to many neceſſities, and to ſuffer many things which were reformed afterwards.

To which diſcourſe I leave the Reader, who may thence receive ſatisfaction, why laws and canons for Tithes and maintenance were not made in the firſt Ages ſo exactly and carefully as afterwards they were enacted both by Temporall and Eccleſiaſticall powers.

But as others alſo obſerve for ſucceeding times; Churches and Tithes were both miſerably overthrown and loſt in moſt of theſe Weſtern parts of the Empire, by the Invaſion of the barbarous people, *Hunnes*, *Goths*, and *Vandals*,

*Vandals*, upon the Christian world, who first invading *Italy* under the Emperour *Justinian*, did miserably spoil and harrow the Countrey, persecuted the Clergy, pulled down Churches, robbed Bishops, and Colledges, overthrew schools of learning, and committed all sorts of wickednesse: and afterwards they set their face against *France*, where to oppose them *Charles Martell* would not encounter, unlesse the inferiour Clergy would yeeld up their Tithes into his hands to pay his Armies and Soldiers: for which sacriledge hee is infamous in the publick Histories to this day, especially because he did not restore the Tithes to the Clergy, according to his solemn promise, after God had blessed him with good successe, killing many thousands in one great battail. This fact of *Martell* was done about the year 660. Chr. and no redresse of it till the Councel of *Lateran*, neer five hundred years after, *Anno* 1189. under *Alexander* the third; and this was the first violence that ever Tithes suffered in the Christian world, after they left the Land of *Jewry* and came to inhabite among Christians. But by that foot of *Charles Martell* it appears, that the Clergy in his time did hold and receive Tithes, and doubtlesse by vertue of laws and canons made in former times, (witnesse the Councell of *Mascon*, *Anno* 586.) and not so late as about the year 800. which some doe pretend. For that Councell of *Mascon*, *Can.* 5. doth affirm, and take them as due by authority and laws of ancient times, and also by the Word of God, and that they were paid by the whole multitude of Christians. So the words of the Canon are expresly. *Leges divinæ consulentes sacerdotibus ac ministris ecclesiarum pro hæreditaria portione omni populo præceperunt decimas fructuum suorum, —quas leges Christianorum*

*congeries longis temporibus cuſtodivit intemeratas.*

Here is no ſmall teſtimony as well of ancient practice in paying of them, as of great opinion, for their being due; ſaith M. *Selden, ca.* 5. § 5. and ſo *Spelman, ca.*18. *infra.*

So alſo the phraſe uſed in the fourth Councell of *Arles. Vt Eccleſiæ antiquitus conſtitutæ nec decimis, nec ulla poſſeſſione priventur*; and other Provincials of that time, and Laws of *Charlemain* agree with it, ſaith Mr *Selden*; and thoſe phraſes muſt needs refer back to ancient times. So *Boniface* an Engliſhman, Biſhop of *Ments*, in an Epiſtle to *Cuthbert* Archbiſhop of *Canterbury* (*Spelman Concil. p.*241.) ſpeaketh of ſome negligent and unworthy Miniſters that did receive Tithes and profits, but did not carefully perform their duties: wherby it appears that Tithes were then paid, though ſome unworthy men received them. And though the originall right be due to God himſelf, yet becauſe hee hath aſſigned over his right to the Prieſts in the old Law, and now to the Miniſters of the Goſpel, therefore they are to be paid to the Prieſt or Miniſter; for hee is the Steward of Gods houſe, and in this point no man muſt reſpect what condition he is of: for the debt is due to his Maſter, not to himſelf; ſo that whether he be good or bad, what condition ſoever he be of, hee ſtandeth or falleth to his own Maſter, as *Spelman* ſheweth, *Cap.*14.

CAP.

## CAP. VII.

*That the ſervice of the* Levites *was clear altered from the firſt inſtitution, yet they enjoyed their Tithes.*

THere be two ſorts of *Leviticall* ſervice: the firſt inſtituted by *Moſes* about the Tabernacle, *Num.* 1. The ſecond by *David* about the Temple. In the firſt the *Levites* were appointed over the Tabernacle and the inſtruments thereof, to bear it, to take it downe, and ſet it up, *Num.*50.51. to ſerve *Aaron* and his ſons, and to do the ſervice of the Tabernacle, and keep the inſtruments thereof, *Numb.*3.6,7,8.

The *Levites* that belonged to this ſervice in generall were 8580. men, between the age of 30. and 50. years, and the chiefeſt occaſion of their ſervice was upon the removing of the hoſt: for better ordering whereof, it was divided amongſt them into three parts.

The 1. to the *Kohathites*, Numb.3.

The 2. to the *Gerſhomites*.

The 3. to the *Merarites*.

Firſt, the *Kohathites* were 2750. men, and their office was about the Sanctuary, *Numb.* 4. 36. or Holieſt of all, *Num.*4.4. under the government of *Eleazar* the Prieſt, *Numb.*3.32. to bear the Ark of the teſtimony, and all the inſtruments of the Sanctuary. The covering vail, (which divided the Sanctuary and the Holieſt of all) the Table of ſhew-bread, the diſhes, the incenſe, the incenſe-cups, the goblets, and coverings to cover it with, and the bread that ſhall be thereon continually, *v.* 7. the Candleſtick, with the Lamps, Snuffers, Snuffe-diſhes, and the oyl Veſſels thereunto belonging, *v.* 9. the golden Altar for incenſe, *v.*11. and the inſtruments where-

1. Num.4.

with they miniſter in the Sanctuary, *v.* 12. The Altar (of burnt-offering) with the inſtruments thereof which they occupy about it, *viz.* the cenſers, the fleſh-hooks, and the baſons, (even) all the inſtruments of the Altar, *v.* 14. But theſe being the holieſt things, were to bee taken down and truſſed up by the Prieſts, ſome of them in blew ſilk, ſome in ſcarlet, ſome in purple cloth, all in badgers skins, and the barres and carriages to be put to them by the Prieſts, as is preſcribed, *Numb.* 4. and then the *Cohathites* came and bare them away, but touch them they might not leſt they die, *v.* 15. nor ſee them when they were folded up, *v.* 20. and *Aaron* was to appoint what part every man ſhould bear, *v.* 19.

2. The *Gerſhomites* were 2630. men, *Num.* 4. 40. under the hand of *Ithamar* the Prieſt, the other ſonne of *Aaron.* Their office was to bear the curtains of the Tabernacle, and the Tabernacle of the congregation, his covering and the covering of badgers skins, that is on high upon it, and the vail of the door of the Tabernacle of the Congregation, *v.* 25. the curtain alſo of the Court which is neer the Tabernacle and neer the Altar round about, with their cords and all the inſtruments for their ſervice, and all that is made for them, *v.* 26. *Aaron* to appoint every man his charge, *v.* 27. and watch, *v.* 28.

3. The *Merarites* were 3200. men, *v.* 44. under *Ithamar* alſo, and they had in charge the boards of the Tabernacle with the barres thereof, and his pillars, and his ſockets, *v.* 31. And the pillars round about the Court, with their ſockets, and their pins, and their cords with all their inſtruments, even for all their ſervice, to be reckoned by name (or Inventory) and the inſtruments of their office and charge, *v.* 32. *Exod.* 4. and *Exod. ca.* 3.

Exod. 26. 15.

This was the office and charge of the *Levites* as they were

were ſimply *Levites*, and not Prieſts alſo: and for their ſervice in this kind, were they judged worthy of the Tithes of all *Iſrael*. But when *Solomon* had builded the Temple and there ſetled the Ark, the Altars, and all the holy implements, this buſineſſe of theirs was meerly at an end: for thoſe holy things were now no more to be carried up and down. *David* therefore foreſeeing it, tranſpoſed the *Levites* to new offices; before they were *Levites* of the Tabernacle; now he maketh ſome of them *Levites* of the Temple, and other Provinciall *Levites*: according to which is the ſpeech that *Joſiah* uſeth to the *Levites*: *Put the holy Ark in the houſe which* Solomon *the ſon of* David *King of* Iſrael *did build*; it ſhall be no more a burden upon your ſhoulders; ſerve now the Lord your God, and his people *Iſrael*, 2 *Chron.* 35.3.

§ 1. *Of the* Levites *of the Temple.*

The *Levites* of the Temple were thoſe that ſerved about the Temple, and were (as I ſay) inſtituted by *David*, but inducted by *Solomon*. *Davids* bloudy hands might not build the Temple of peace, 1 *Chron.* 22. 8. he prepared the treaſure and ſtuffe for the building, the men and the manner for the order of the ſervice, (*ib. v.* 14. *c. ſeq.*) but *Solomon* performed the work. The *Levites* of the Temple were of two ſorts, one *Levites* and Prieſts, the other *Levites* onely: In the function of the Prieſts, he changed little ſave the place of their ſervice, not the manner; before they ſerved in the Sanctuary of the Tabernacle, now he removeth them to the Sanctuary of the Temple.

But to avoid confuſion (becauſe the poſterity of *Aaron* was by this time (that is, in 600. years) exceedingly multiplyed) he divided the Prieſts into 24. ranks or courſes, according to the names of their families, as you may

may read, 1 *Chron.* 24. 7. appointing them their turns and times of attendance, which as it ſeemeth, 2 *Chron.* 23.8. (and as * *Joſephus* explaineth it) was from one ſabbath to another, therefore the Greek tranſlation calleth theſe turns or courſes, ἐφημερίας & ἐφημερίδας, which *Theophylact* ſaith is, *hebdomia*, a week: Hereupon *Zacharias* is ſaid to be of the rank or courſe of *Abiah* (which was the 8. rank) and to execute the Prieſts office, and burn incenſe as his turn came, *Luke* 1.

* *Præcepit eis ut unaquæque generatio miniſtraret Deo per dies octo, à Sabbatho uſque ad Sabbathum. Joſeph. Antiq. l. 7. cap. 15. p. 389.*

The other *Levites* of the Temple; that is, thoſe that were ſimply *Levites* and not Prieſts; namely, ſuch as deſcended not of the line of *Aaron*, he divided into 3. parts: one to be ſingers; another to be porters, and take the charge of the gates of the Temple; the third to be keepers of the Treaſury.

The ſingers to be divided as the Prieſts, into 24. ranks or courſes; The porters into 5. parts, one part to every of the 4. gates of the Temple, and the fifth to *Aſſuppim*, *i. e.* the Councell-houſe.

Their Treaſury was generally committed to one as the chief, but under him, to 2. ſorts of other officers, one to keep the Treaſures of the houſe of the Lord, (that is, that were given to the maintenance of the Temple) *v.* 22. and the other to keep the dedicate things, *v.* 26. & 28. But I finde that the Treaſury was divided into 3. parts: one called *Meſark*, wherein were laid up *donaria principum*, the gifts of Kings and Princes; the ſecond *Corban*, in which were *donaria ſacerdotum*, the offerings of the Prieſts; and the third *Gazophylacium*, *pro donariis tranſeuntium*, for the offerings of the people in generall, into which it ſeemeth the poor widow caſt her mite. * *Joſephus* ſaith that with this office of the Treaſury, as the moſt eminent, *David* honoured the offſpring of *Moſes*.

* *Eos verò qui erant de germine Moſis, eminentiùs honoravit; fecit eos autē cuſtodes theſaurorum Dei, atque vaſorum quæ reges Deo dicare contigerit.* Antiq. l. 7. c. 15. pag. 390.

§ 2. *Of*

§ 2. *Of the Provinciall* Levites.

The Provinciall *Levites* are thoſe whom he ſevered from the Temple, and placed abroad in the Country to be rulers over the people, both in matters pertaining to God, and the affairs of the King, that is, ſpiritually and temporally; ſome to be Judges, ſome to be other Officers in the Common-wealth: 1700. of them he ſet on the Weſt-ſide of *Jordan*, and 2700. on the Eaſt-ſide, chief Fathers, and all worthy men, *Chron.* 26. 30. & 32. *Joſephus* counteth the *Levites* of this kinde with their Scribes, as he calleth them, to be 6000. whereby it appeareth that the ſect of the Scribes belonged to the Judges.

*Iudices autem populi & ſcribas eorum* 6000. Antiq. l. 7. c. 15. p. 389.

Thus *David* made a new form of the ſervice of the *Levites*, far differing from the firſt: yet the Tithes appointed to the firſt, remained over to the ſecond ſort: and thoſe that medled not with the Temple and holy things, namely, the Provinciall *Levites*, had their part in the Tithe as well as the Templar *Levites*; and therefore as the alteration of the ſervice, whereto they were firſt ordained, took not away the wages allotted to them: ſo the ſecond alteration of their ſervice, namely, this of the Goſpel, ought not to take from the *Levites* thereof, our Miniſters, the Tithe before paid to the two former kind of *Levites*; I mean them of the Tabernacle, and of the Temple. The Templar *Levites* were delivered from bearing the burden of the Tabernacle, and yet had the Tithes; therefore the *Levites* of the Goſpel muſt have their Tithes, though they be delivered from bearing the burden of the Law, and ceremonies thereof.

Though this diſtinction of Templar and Provinci- Note.
all *Levites* may ſeem new to ſome men, yet it is plain-

ly grounded upon the Text, and is very materiall to be obſerved for many purpoſes. At firſt whiles the number of the *Levites* and Prieſts was not very great, they all attended at the Tabernacle at *Shilo*, firſt, or elſewhere: But when the Temple was built by *Solomon*, and that Tribe greatly encreaſed, they attended by courſes, (which was before deſigned by *David*, 1 *Chron.* 23, *&c.*) and then it fell out but one week in an half yeer to each to attend at the Temple: for the Prieſts being divided into 24. courſes, and ſo likewiſe the *Levites* into 24. no courſe could come oftner about, then once in 24. months, or a week in every half year, which indeed was their uſage, as *Joſephus* ſheweth; and ſo *Scaliger* and *Salianus*, with other accurate Chronologers.

Now the whole Tribe being ſo mightily encreaſed in *Davids* time, as that there were 38. thouſand *Levites* beſides the Prieſts, 1 *Chron.* 23. 3. *Magnus ſanè numerus pro iſto populo, ut facilè intelligas multos ornatui magis ſerviiſſe quàm neceſſitati:* as *Grotius* there ſaith.

Therefore God employed them for many uſes more then to attend at the Temple: ſome were deſigned for other employments in the Common-wealth, and they applied other ſtudies, as being the chief men for nobility and dignity, and alſo for learning and knowledge in that Common-wealth.

*Cum pingue haberent otium, non tantum omnia legis, ſed & medicinæ, aliarumque artium diligentes ediſcebant, ut & Ægyptii ſacerdotes, ideoque primis ſeculis, ex illis, ut eruditioribus Senatus 70. virûm legi maxime ſolebat.* Grotius in Deut. 17.

There was no other Academy or School then in the whole world, but at the Temple among them, where the

the knowledge of Gods law, or learning in any kinde could bee gained: The adminiſtration of law and juſtice throughout the kingdome depended on them principally; *for God made his covenant with* Levi *of life and peace. The law of truth was in his mouth. The Prieſts lips ſhould preſerve knowledge, and they ſhould ſeek the law at his mouth:* Mal. 2.5,6,7. and ſo *Ezek.* 44.23. *They ſhall teach my people the difference between the holy and prophane, and cauſe them to diſcern between the unclean and the clean: and in controverſie they ſhall ſtand in judgment, & they ſhal judg according to my judgements: and they ſhall keep my laws, and my ſtatutes in all mine aſſemblies*: they being the principall Judges and Lawyers in that Common-wealth of Gods own conſtitution. And whereas it is now granted on all hands, that there was 3. Courts of Juſtice in that kingdome; 1. the great Councel of 70. Elders; 2. the Court of Judgement conſiſting of 23. 3. the Court of three, or ſome few more: the Prieſts and *Levites* were principall men, both Judges and Officers in all Courts, *Scophtim & Schoterim*, as 1 *Chron.* 23.4. both to give ſentence and judgement, and alſo to execute the ſame: ſo the Divines doe affirm alſo in their late Annotations, upon 1 *Chron.* 26.29,30. and 2 *Chron.* 19.8.11. They did ſtudy the Judiciall and Politique laws, and had power to ſee the law of God, and injunctions of the King to be obſerved, and to order divine and humane affairs. And they held alſo other honourable offices: for we read that *Zechariah* a *Levite* was a wiſe Counſellor. And *Benaiah* a Prieſt, ſon of *Jehoiada*, was one of *Davids* twelve Captains, being the third Captain of the Hoſt for the third month: and in his courſe conſiſting of 2400. was his ſon *Amizabad*: *Benaiah* was alſo one of *Davids* principal Worthies, having the name among

1 Chron. 26.14

1 Chron. 27.5.

1 Chron. 11.22

the three Mighties. He was alſo Captain of the guard to *David*, and after the death of *Joab*, hee was made Lord Generall of the Hoſt, by King *Solomon*, in *Joabs* room, 1 *Kings* 2.35.

And becauſe ſome have doubted whether they were imployed in the adminiſtration of juſtice, it is more clearly of late evinced then formerly hath been: for beſides *Sigonius*, *Bertram*, *Caſaubon*, *Moulin*, and divers others, the learned *Hugo Grotius*, in his Annotations upon *Matthew*, *cap.*5.21. hath very accurately proved it out of the Text, *Joſephus*, *& Philo*, and other monuments of the *Jews* (whoſe teſtimonies at large I cannot now recite) that there was no diſtinction, nor diviſion of the Courts of Juſtice, the one Eccleſiaſticall, the other Civill, but the Courts were united, and the Prieſts and *Levites*, the principall Judges and officers in every Court, to whom the people were to be obedient upon pain of death, *Deut.*17.12. they being appointed to *hear every cauſe between bloud and bloud, between plea and plea, and between ſtroke and ſtroke, being matters of controverſie within thy gates*; and as our Lawyers call them, Pleas of the Crown, and Common pleas, or whatſoever elſe did ariſe among them. The Provinciall *Levites* were eſpecially appointed to the Courts of Juſtice, and alſo the Templar *Levites*, when they had performed their courſes, (and went home to their own houſes) being but one week in half a year, were at very good leiſure to aſſiſt the people in every Tribe, where their Cities were allotted to them, in governing, ruling, and directing in all matters pertaining to God and the King, 1 *Chron.* 26. 30. 32. for which purpoſe God did ſcatter them in every Tribe, and turned the curſe of *Jacob* into a ſingular bleſſing, *to be divided in* Jacob, *and ſcattered in* Iſrael,

Gen.49.7.

rael, appointing 1700. to be on the weſt-ſide *Jordan*, and 2700. on the Eaſt-ſide.

The ancient frame of our Common-wealth, for 500. years before the Conqueſt, was thus diſpoſed and governed, as this learned Authour ſheweth fully in his Gloſſary and Councels; and happy had it been if things had ſo continued ſtill: but now the law being otherwiſe ſetled, and the Courts divided, it is not ſafe, or eaſie to make alteration.

*Comes præſidebat foro Comitatus, non ſolus, ſed adjunctus Epiſcopo; hic ut jus divinum, ille ut humanum diceret; alterque alteri auxilio eſſet & conſilio: præſertim Epiſcopus Comiti, nam in hunc illi animadvertere ſæpe licuit & errantem cohibere: idem igitur utrique territorium, & jurisdictionis terminus:* Gloſſar. Spelman.

The Biſhop and Earl of the County were joynt Magiſtrates in every Shire, and did aſſiſt each other in all cauſes and Courts; and ſo Mr *Selden* in his Hiſtory, *cap.* 14. § 1. By this means there was great union and harmony between all Judges and Officers, whereas there is now great contention for juriſdiction, and intolerable claſhing in all Courts, by injunctions, prohibitions, conſultations, and croſſe orders to the great vexation of the clients and ſubjects.

The diviſion of Courts ſeems to have proceeded firſt from Pope *Nicholas* 1. as is mentioned in *Gratian, Can. cum ad verum* 95. *diſt.* about 200. years before the Conqueſt, which was imitated here by *William* the Conquerour, whoſe ſtatute is recited and illuſtrated by *Spelman* in his Gloſſary and Councels, and lately alſo publiſhed by Lord *Cook, lib.* 4. *Inſtitutes, cap.* 52. But the further proof hereof will require more then this place, or occaſion will bear: onely thus much was neceſſary to be

mentioned and aſſerted in regard of explication and reference to many paſſages in this book, and alſo other parts of his works, which perhaps are not obvious, or well obſerved by every common Reader. *Vide Gloſſar. Domini Spelman. in diatribis de Comite; de Gemottis; de Hundredo, &c. & Concilia paſſim.*

## CAP. VIII.

*The great account made of Prieſts in the old Law, and before.*

PRieſthood is of 3. ſorts. 1. That before the Law. 2. That of the Law. 3. This of the Goſpel. The firſt belonged to the *Gentiles*, the ſecond to them of the Circumciſion, the third to us under grace. The third came in lieu of the ſecond, and the ſecond riſe out of the firſt, which was from the beginning, and the work of nature: for as *Origen* ſaith, naturall wiſdome required and eſtabliſhed it: *Abel* and *Cain*, before the Prieſts office, by the inſtinct of nature, not by commandement, when each of them ſacrificed, or made an oblation unto the Lord, *Gen.* 4. 4. their outward ſenſes reported to them continually the great mercies that God had ſhewed unto them: and their inward taught them preſently, that they muſt be thankfull, and what courſe was fitteſt to expreſſe their thankfulneſſe; namely, to honour him that gave all, with ſomewhat of his own; I ſay to honour him with it, not to reward him: therefore both of them (as it is ſaid in *Gen.*) offered of their fruits; *Cain* like a churle, his fruits ſimply, that is, his ordinary and lean ſtuffe: but *Abel* like a Prince, his firſt-fruits, that is, his beſt fruits, namely, the fat, &c. *Gen.* 4. 3, 4. Thus was Prieſthood inſtituted, corrupted, and reformed e-

*Erant nihilominus ea tempeſtate ſacrdotes, nec dum adhuc à lege ordinati, ſed naturali ſapientia hoc requirente & perficiente. l. 11. in Iob p. 2.*

ven

ven in the beginning. *Cain* (for ought that here appeareth to the contrary) began it, and likewiſe corrupted it; *Abel* continued, and reformed it: but ſome rather think (and ſo ſaith *Hugo*) that *Adam* taught it to his children: and this to me ſeemeth more likely, that the better function ſhould be derived from the better man, and not from the bloody mind of murdering *Cain*. *In* Gen. 4. 3.

From this fountain it ran under ground (I mean unſpoken of) till the time of *Noah*, and then breaking forth again, did ſhew it ſelf more perſpicuouſly in his perſon, for he not onely offered an oblation, which he learned of his Anceſtors, but offered it alſo upon an Altar, which he taught his ſucceſſors.

By this example of *Noah*, the exerciſe of ſacrificing grew common (no doubt) with the people of that time, and after in the confuſion of languages to be diſperſed through all Nations, who loſing their originall faith with their originall tongue, and falling ſo to idolatry, applied this holy function to the worſhip of idols and devils. Amongſt which, notwithſtanding, (as here and there an ear of wheat, in a field of thiſtles) God had his ſervants, who from time to time, and age to age, traducing this holy myſtery (as ſacred fire) to poſterity, kept it ever in the originall integrity. Beſides the regall Prieſt *Melchiſedek*, ſuch were *Abraham* and *Job*, whom though the Scripture intituleth not with that name, yet it teſtifieth that they uſed the function, which ſeemeth then to be ordinarily, though the Scripture mentioneth it not; for young *Iſaac* could talk of the fire, and wood, and ask where the Lamb was for the burnt-offering, *Gen.* 22. before *Abraham* had made the ſacrifice there ſpoken of. But *Abraham* being firſt a *Gentile*, and after the Authour of Circumciſion, brought the myſtery

of

*Vt non Gentes ex Iudæis, ſed Iudæi ex Gentibus ſacerdotium acceperint. Ep. ad Euagrium. Tom. 3. p. 38.*

of ſacrificing, and thereby of Prieſthood) from the *Gentiles* to them of the Circumciſion; ſo that (ſaith *Ierome*) the *Gentiles* received not Prieſthood from the *Iews*, but the *Iews* from the *Gentiles*.

## CAP. IX.

*When our Saviour commanded that the Diſciples ſhould take nothing with them, but live on the charges of the faithfull; this bound not the Diſciples perpetually.*

WHen our Saviour preſcribed his Diſciples to take nothing with them, but to live at the charge of them into whoſe houſes they entred; this was a law to bind the faithfull to provide for the Miniſter, but not to bind the Miniſter to live ſo, and no otherwiſe; for though at this time he commanded them to take no ſcrip with them, (that is, no neceſſaries) yet after he ſaith; *But now he that hath a ſcrip let him take it*, *Luke* 22. 36. So likewiſe he willed them to ſalute no man, yet it was not his meaning, that afterwards they ſhould be ſo uncourteous. If this had been a legall commandement to the Diſciples, then might they not vary from it, nor live in any other ſort without ſinne. But *Paul* and *Barnabas* left this courſe of maintenance and lived upon the labour of their hands, therefore this was no binding commandement, but as a Charter of liberty and power granted to the Diſciples. They might both uſe and exact it, if they would, or they might *diſcedere de jure*, and leave it if they liſted. S. *Paul*, 1 *Cor.* 9. largely handleth this point, and concludeth it to the purpoſe we alledge: *So* (ſaith he) *the Lord ordained that they who preach the Goſpel ſhould live of the Goſpel*, v. 14. *But I* (quoth he) *have uſed none of theſe things, neither*

*neither write I theſe things, that it ſhould (thus) be done unto me*, v.15. By which words, ſaith S. *Auſtin*, it appeareth that our Lord commanded not in ſuch ſort, as they which preached the Goſpel, might not live otherwiſe then by that that was miniſtred unto them by them to whom they preached it: for then (ſaith he) the Apoſtle did againſt this commandement, that got his living with the labour of his hands, leſt he ſhould be chargeable to any. But our Lord (ſaith he) gave them power to doe it (if they would) that thereby they might know that theſe things were due unto them. And again, a little after he addeth theſe words; therefore when the Apoſtle ſaith, *That our Lord ſo ordained, but for his part he uſed it not*, he ſheweth manifeſtly, that power was given them to uſe it, (if they would) but no neceſſity impoſed of doing it, (if they would not.) *Tom.4.99.*

And from this diſtinction is the reconcilement drawn of theſe two places in Scripture, which otherwiſe ſeem contrary, *Mat.*10.10. and *Luke* 9. 3. ſay both, that our Lord commanded that the Diſciples ſhould not take, no not a ſtaffe with them: but *Mark* 6.8. reporteth it, *Nothing ſave a ſtaffe onely*. Saint *Auguſtine* therefore in the firſt place underſtandeth it literally, not ſo much as a ſtaffe to ſtay or uphold them: but in the ſecond place figuratively, for power and authority, as if the ſpeech had been, Take no kind of neceſſaries with you, no not ſo much as a ſtaffe to ſtay you, ſave onely the ſtaffe of authority that I now give you. *Auguſt. de Conſenſ. Eu. Tom.4.100.a.*

And in that our Saviour left theſe things to the choice of the Diſciples and Miniſters, he made them Lords and free-men, for neceſſity impoſeth bondage; Therefore *Paul* and *Barnabas* ſhewed not onely their freedome in not uſing that that lay in their power, but the noble-

neſſe of their mind alſo that would depend upon no body; and hereby we muſt not judge them to have no right to tithes, becauſe they omitted them alſo.

## CAP. X.

*That many things in the beginning both of the Law and the Goſpel were admitted, or omitted, for the preſent, or reformed afterward.*

AS Painters in the beginning of their work, uſe rude colours, and unperfect lines, for their preſent direction; ſo in all great mutations, many things are for the preſent admitted, or omitted, which future time ſhall have juſt occaſion to reform. This in humane actions is ſo common, as needeth no inſtance: but inſomuch as the holy rites themſelves are not free from it, neither in the old, nor new Teſtament, it is neceſſary for the point in hand to ſhew ſome examples thereof.

I obſerve therefore three kinds of alterations, 1. Admiſſion of things prohibited. 2. Omiſſion of things commanded; and 3. Reformation of things eſtabliſhed.

1. Touching the firſt point; plurality of wives was forbidden; yet after *Lamech* had broken this inſtitution, the children of God were permitted alſo to doe it. So likewiſe was Divorcement: yet *Moſes* tolerated it.

None might ſacrifice in the high places, or under green trees, but onely in the Tabernacle, *Deut.* 12. 2. yet till the building of the Temple, God often accepted it, as of *Gedeon.*

The Prieſts onely might eat the ſhew-bread, yet *David* and his followers did eat it alſo upon neceſſity.

2. On the other ſide, things commanded were omitted for a time; for when the Law was given, the wheeles thereof

thereof could not preſently fall into their courſe. Circumciſion it ſelf was not uſed during all the 40. years travell in the wilderneſſe, and happily had never been revived, if God had not commanded *Joſhua* to circumciſe the children of *Iſrael* the ſecond time, *Joſ.* 5. 2. Yea, the great ceremonies of ſacrifices and oblations ſlept all that while, the people offered to Idols, and *Aaron* with them, but from the firſt ſacrifice that *Aaron* offered, at the entring into the wilderneſſe, *Lev.* 9. 8. *&c.* not one Altar breathed unto the Lord in 40 years, *Amos* 5. 26. Even *Moſes* himſelf was buried in this ſleep. How the Paſſeover and other Feaſts were celebrated appeareth not, they are ſeldome mentioned, and may ſeem therefore ſeldome kept. One Paſſeover at the going out of *Ægypt*, *Exod.* 12. 11. Another in the wilderneſs of *Sinai*, God then reviving that commandment, *Numb.* 9. 1. *&c.* After by *Joſhua* at *Gilgal* beyond *Jordan*, *Joſ.* 3. 10. and from that day till the 18. year of *Joſias*, (that is, above 800. years) all are paſſed over as obſcure, except one in the time of *Solomon*, 2 *Chron.* 35. 13. and 2 *Kings* 23. 2. But I muſt not conceal that *Moſes* omitteth the Hiſtory of 36. years travail in the wilderneſſe, reporting onely the puniſhment of him that gathered ſticks on the Sabbath day, *Numb.* 15. 32. and therefore in that time whether it were kept or not, we can conclude nothing: but it is plain that before *Ezekias* his days it was ſo utterly loſt, that when he came to renue it, it ſeemed meerly a new thing, 2 *Chron.* 29. and all this time alſo, was both the Temple forlorn and ſhut up, and all the holy rites almoſt extinguiſhed till he renued them, *ib.*

For the point of Reformation; the *Levites* were by *Moſes* aſſigned to the Tabernacle; the Prieſts to 3.

the Altar, but both of them confuſedly without diſtinction, and yet ſo they continued till the time of *David*: who to reform this confuſion, divided them into ranks, allotted a part of the ſervice to every rank, and aſſigned to them of the ranks times of attendance, and intermiſſion, 1 *Chron.* 23, 24, 25, 26. *cap.* upon which it is ſaid that *Zacharias* was of the courſe (or rank of *Abia*) and executed the Prieſts office, as his courſe or turn came in order, *Luke* 1.5, *&* 8.

Some things alſo that were never commanded were brought into the old Law afterward, and well accepted, as the act of faſting, and the habit thereof, ſackcloth and aſhes.

The brazen Serpent was ſet up by Gods own commandement, *Numb.* 21.6. yet when the people burnt incenſe to it, *Ezekias* brake it in pieces, 2 *Kings* 18.4. without any commandement.

None might ſlay the burnt-offerings but the Prieſts, but when they were too few, and till more were ſanctified, the *Levites* did it, 2 *Chron.* 29.34.

Likewiſe in the New Teſtament, the wheels of the Goſpel were not by and by in their courſe. The Apoſtles themſelves are compelled to the ſame neceſſities.

I. Firſt, to admit many ceremonies aboliſhed, for if they ſtruck at them all at once, they drive all the *Jews* from the doctrine at once; again, if they impoſed them upon the *Gentiles*, the *Gentiles* repined at the burden: to carry the matter therefore as even as they might, they call a Councell, and conſulting upon it, they write to the *Gentiles*, that they purpoſed not to burden them but with theſe neceſſary things, *viz.* to abſtain from things offered unto idols, and bloud, and that that is ſtrangled, and from fornication, *Acts* 15. 29. by which the

*Gentiles*

*Gentiles* could not complain of being burdened with ceremonies, nor the *Jews* that their ceremonies were contemned. In like sort Saint *James* and the Elders at Jerusalem seeing many thousand *Jews* to beleeve, and yet to be zealous of the Law,(*Act*.21.20.)they not onely tolerated it for the present, but perswaded Saint *Paul* (comming thither) to doe the like, and further to make a shew also that himself observed the law: whereupon as before he had circumcised *Timothy* in shew of keeping the law; *Acts* 16.3. so now he also personateth a *Nazarite*, he is purified, and he is shaven (as one already) at *Cenchrea*, *Act*.21.26. and 18. 18. Numb.6.8.

Thus the Apostles applied themselves to the necessity of the time, the place, and the persons: thus *Paul* becommeth a *Proteus*, a *Jew* to the *Iews*, a *Gentile* to the *Gentiles*, weak to the weak, all to all, and all this to gain all them to Christ, 1 *Cor* 9.22.

In the mean while, many things required to the establishing of the Church, must needs be omitted; the main matters they uphold unto death, but the secondary and remote dependances they refer to opportunity: therefore they by and by pressed no man with keeping the Lords day, and though themselves began by little and little to sanctifie it with breaking of bread, and preaching, *Acts* 20.9. 1 *Cor*. 16. 2. yet the first mention of it is above 22. years after the Passion of Christ in *Acts* 20. 7. and I suppose it to be begun about that time, because I finde that till that time the Apostles used the *Iudaicall* Sabbath, but never after, through all the New Testament; and the reason why they then used it was, for that the greatest Assemblies being on that day in the Temple and Synagogues of the *Iews*, therefore they resorted thither, there they preached the Gospel, there 2.

they taught the people, as if themſelves had celebrated that Sabbath. And as it was long ere they brought in the Lords day, ſo in matters more remote and outward, matters belonging to the body, they were leſſe curious; therefore though they laboured hard in the Lords Vineyard, yet they required no wages of any man. And though *Paul* preſcribed that Biſhops ſhould be good houſekeepers, yet few or none of them were owners of houſes, but rather as fugitives to eſcape perſecution, or as pilgrims to preach the Goſpel.

3. If the law that was given in a ſolitary place, to a people ſequeſtred from all other, and at union amongſt themſelves, and having no publique nor potent adverſary to hinder the courſe thereof; if they I ſay, could not preſerve it in the originall integrity, much more of neceſſity muſt the eſtabliſhment of the Goſpel be impeached and turned out of the courſe thereof, it riſing in the midſt of the enemies, in the flame of perſecution, and with the oppoſition of the greateſt Potentates in every Region. It muſt therefore have the greater need of ſundry Reformations: ſome of the firſt lineaments muſt be wiped out, ſome altered, & ſome as occaſion ſerved muſt be added or amended; the *Iudaicall* ceremonies that for many years together were permitted in the cradle time of the Church, muſt be taken away: *Paul* that then ſuffered them, now ſuppreſſeth them, *Col.* 3. *Gal.* 3. *ca.* 4. *c.* 5. and the holy Ghoſt throughout all the Epiſtle to the *Hebrews*, beateth them down for ever.

Thus as old branches be cut off, ſo ſome new be ingraffed; the Lords day, the Feaſts of *Eaſter* and *Whitſontide*, not ſpoken of in the beginning, are brought in at length. Deacons are ordained preſently after Chriſt, *Act.* 6. 2. but no Biſhops in 20. years after, nor were they

they then particularly aſcribed every one to his limit, but many together over one City, as at *Epheſus*, *Act.* 20. 28. So women at firſt were admitted to be Deacons, but time afterwards wore them out. Chriſt commanded his Diſciples that they ſhould not goe from houſe to houſe, but *Paul* ſaith, I have taught you openly, and from houſe to houſe, *Acts* 20.20. *Conc. Laodicen. c.* 11.

To conclude, all could not be ſuddainly done, nor compendiouſly written, that belonged to the government of the Church, therefore the Apoſtles left much to the wiſedome of the Church, under this generall Commiſſion, *Let all be done in order*, 1 *Cor.* 14.40. a few words, but of great extent, like that of the Dictators at *Rome*, which being but two words, *providere reipub:* gave them authority over every thing.

## CAP. XI.

*That upon the reaſons alledged, and other here enſuing, the uſe of tithing was omitted in Chriſts, and the Apoſtles time; and theſe reaſons are drawn, one* ab expediente, *the other* à neceſſitate.

THe greater matters thus quailing as aforeſaid, it could not bee choſen but things of leſſe importance muſt alſo be neglected; eſpecially ſuch as were outward, and concerned onely the body, amongſt which the uſe of Tithing was likewiſe diſcontinued, both in the Apoſtles time, and in the firſt age of the Law, when the great ceremonies of Circumciſion, Sacrifice, and Oblations, the Paſſeover, &c. and many other holy rites were ſuffered to ſleep.

But

But ſome will ſay, God ſtrictly exacted not theſe things till the place he had choſen was prepared for them, that is, till the building of the Temple; as it is true in part touching the old Law, ſo is it likewiſe true in the new Law: and that therefore Chriſt and the Apoſtles exacted not the payment of Tithes in the firſt pilgrimage and warfare of the Goſpel, but referred them amongſt ſome other things till the Church were eſtabliſhed; for as *Solomon* ſaith, *Every thing hath his time, and the time was not yet come*, that the Church ſhould demand her owne, leſt with *Martha*, ſhee ſeemed curious about worldly things, rather then as *Mary* to ſeek the ſpirituall.

*when there ſhall be a place which the Lord God ſhall chuſe to cauſe his name to dwell there, thither ſhall you bring all that I command you; your burnt-offerings and your ſacrifices, your tithes and the offerings of your hands, and all your ſpeciall vows, which you vow unto the Lord*, Deut. 12. 11. theſe things were not reſpited till then, but appointed that then alſo they muſt bee performed; for it is alſo ſaid, *Exod.* 12. 21. When yee ſhall come into the Land which the Lord ſhall give you, ---then ye ſhall keep this ſervice, *i. e.* of the Paſſeover; which was done, *Ioſ.* 4. 6. but yet I take this to be diſcharge of it in the mean time. *Quære.*

When the Kingdome was rent from *Saul* and given to *David*, *David* by and by ſought not the Crown, but life and liberty: ſo the Prieſthood being rent from *Levi* and given to the Church, the Church by and by required not her earthly duties, but as *David* did life to grow up, and liberty to ſpread abroad; for love (ſaith Saint *Paul*) ſeeketh not her own, 1 *Cor.* 13. 5. and ſhould then the mother of all love (the Church) be curious herein, eſpecially when her neceſſities were otherwiſe ſo abundantly ſupplied?

Saint *Paul* maketh it manifeſt (1 *Cor.* 9. throughout) where he ſheweth, that very much liberty, and great matters were due unto him in reſpect of his Miniſtry, yet he concludeth, I have not uſed this power (ἐξουσία) but on the contrary part ſuffered all things, *ibid. v.* 12. and again, *v.* 15. I have uſed none of all theſe things;

but

But why did he not uſe them, ſince they were due unto him? his reaſon is, that we (as though he ſpake in the name of all the Apoſtles) ſhould not hinder the Goſpel of Chriſt, *ibid. v.* 12. But why ſhould the taking of that was due unto him hinder the Goſpel? becauſe the malicious backbiters would thereupon report that he rather preached it for gain, then of zeal, and ſo abaſed his authority in the Goſpel, *ib.* 18. whereas by this courſe of taking nothing for his pains, hee made it, as he ſaith, free, *ibid.* and ſtopped their mouths. Thus it is evident, that the Apoſtles not onely neglected, but abſolutely refuſed even the things that they certainly knew to belong unto them.

*Another reaſon why the Apoſtles received no Tithes,*
*drawn* à neceſſitate.

The very condition of the Church in the time of the Apoſtles could not ſuffer them to receive Tithes; for as the *Levites* received them not in their travell, and ways, but when they were ſetled, and the Temple built: ſo the Apoſtles being altogether in travel through all parts of the world, and in continuall warfare with the enemies of the Goſpel, one while in priſon, another while in flight, always in perſecution, much leſſe could they look after Tithes, which alſo were not to be paid as they needed them, but at the times and places onely, when and where they grew to be due, and ere that time came, they that were to receive them, were in another Countrey many hundred miles off: for example, the holy Ghoſt ſaith that *Peter* walked through all quarters; *Acts* 9.32. one while at *Lydda*, *ib.* another while at *Joppa*, *ib. v.* 36. firſt at *Jeruſalem*, af-

ter at *Antioch* (in *Syria*) *Gal.* 2.11. then at *Babylon* in *Ægypt*,* 1 *Pet.*5.13. *Paul* and *Barnabas* being at *Antioch*, aforesaid, or sent forth by the holy Ghost, first to *Seleucia* in *Syria*, then to *Salamis* and *Paphus* in the Isle of *Cyprus*; after from thence to *Perga* in *Pamphilia*, so to the other *Antioch* in *Pisidia*, *Acts* 13. after to *Iconium*, *Lystria*, *Derbe*, the parts of *Lycaonia*. So again, to *Antioch* in *Syria*, thence to *Jerusalem*, and presently back to the same *Antioch*, where *Paul* and *Barnabas* breaking company, *Barnabas* with *Mark* saileth to *Cyprus*; *Paul* taking *Silas*, travelleth through *Syria* and *Cilicia*, confirming the Churches. Then he commeth to the Countries of *Phrygia*, *Galatia*, *Mysia*; from whence being called by the holy Ghost, he leaveth *Asia*, and passeth by *Samothracia* into *Europe*; preacheth at *Philippi*, a City of *Macedonia*, furthest North-ward of all *Greece*: then back again, and up and down *Asia* to *Jerusalem* again, and from thence at length to *Rome*; Reade *Acts* 13. 14, 15, 16. *cap.*

* Many affirm that he was at *Rome*. *Metaphrastes* and some other that he was here in *Britannia*: *Petri igitur munerus erat ut qui jam complures orientis Provincias prædicando evangelium peragrasset, jam (quod reliquum esse videbatur) lustraret orbem occidentalem, & usque ad Britannos (quod tradunt Metaphrastes & alii) Christi fidem annuncians penetraret.* Baron. Tom. 1. f. 597. l. 13. Metaph. die 29. Junii.

I will not speak of that, *Theodoretus*, and *Sophronius* the Patriarch of *Jerusalem* affirm, that after his first imprisonment at *Rome* he preached the Gospel to the *Britaines* our Countrymen, for happily he might doe that at *Rome*. But to come to the rest of the Apostles, *Bartholomew* (as *Jerome* witnesseth *Catalog. script. Eccles. Tom.* 1.) goeth to the *Indians*, *Thomas* to the *Medes*, *Persians*, *Hyrcanians*, and *Bactrians*, *Matthew* up and down *Æthiopia*, every one of them one way or other, to carry the sound of the Gospel through all the world, *Psal.* 19. I ask now what these men should have done with their Tithes? where they should have placed their Parsonage or Rectory? where their Cellar for their tithe of Wines? where the tithe Barn for the Corn? or if they

they had had such places, how should they have been defended *à fisco?* how frō the rapine of their persecutors? Our Saviour sending his Disciples but to the neighbour Towns of *Iudæa*, would not suffer them to encumber themselves with carrying any thing. And therefore the Apostles had great reason to eschew all impediments in these their turbulent and long peregrinations.

## Cap. XII.

### *That Ministers must have plenty.*

THose that would have Ministers live of alms and benevolence, make their reason, that they must follow the example of Christ and the Apostles; but by the example of Christ and the Apostles they are taught to abound in all works of charity themselves, to feed the hungry, to cloath the naked, lodge the harbourlesse, &c. and how shall they perform this, living in want? 5000. did Christ feed at one time, *Joh.6.*10. *Mat.*14.21. above 4000. at another time, *Mat.*15.38. and even herein are his Ministers bound to follow him, not in the miracle, but in shewing like mercy and compassion: for he saith not, I desire to doe a miracle, but I have compassion on this people, *Mat.*15.32. and therefore left his mercifull disposition toward them should be unprofitable (wanting then other means) he chose rather to perform it by a miracle, then to leave it undone; yet to shew that all ordinary means must first therein be used, as far as it may be, he neither called for Manna from heaven, nor quailes from the sea, (*Exo.*16.13. *Numb.*11.31.) but beginneth the feasts by ordinary means, the one with 5. loaves and 2. fishes, the other with 7. and a few little fishes. In which example of charity and hospitality, the Mini-

fters I ſay are bound to follow him as far as they can; for the commandement is, *Sequere me*, Follow thou me, *Mark* 10.21. *& cap.* 5.27. *Ioh.* 21.19. and if the Miniſter be not able to follow him for worldly wants (as the *Galatians* would have given *Paul* their eyes, ſo) the Congregation muſt give him their legs, that is, means and faculty to doe it: for the arm of working of miracles is now taken from our mother the Church, and therefore her children muſt now ſtrengthen her hand the more abundantly to work by ordinary means, that is, they muſt furniſh her with worldly neceſſaries, whereby ſhe may be inabled to perform theſe great works of charity required of her.

1 Tim. 3. 2. *Paul* commandeth that the Biſhops ſhould be φιλόξενοι, *hoſpitales*, good houſekeepers, and how ſhould they be ſo, if they have not proviſion and means to maintain it, and that in a certain manner? for if themſelves be fed at the trencher of benevolence, what aſſurance have they of a diſh of meat for their poor brethren? The heavens themſelves are unſtable; now it raineth, and wee have abundance, then commeth drought, and all is in ſcarcity. The humour of man is as variable; the people of *Lyſtra* that made a god of *Paul* on the one day, ſtoned him on the other, *Acts* 14. and in the fiery time it ſelf, when zeal was moſt inflamed, our Saviour as it ſeemeth found even then a cooling blaſt; when for want of ordinary ſupply he was fain to fetch 20 d. by a miracle out of a fiſhes mouth to ſerve his need withall, *Mat.* 17.27.

It is meerly therefore unfit that Miniſters ſhould live upon benevolence and uncertainty: therefore though Chriſt and the Apoſtles lived ſo for the preſent, yet it is not preſcribed as a perpetuall law to the ſucceeding Miniſters.

CAP.

## CAP. XIII.

### *Not to give leſſe then the Tenth.*

IF thoſe that miniſtred without the vail of the Temple were worthy of the tenth part, how much more deſerved they that miniſter in the Sanctuary? the *Levites* might not come within the vail, that is, into the firſt Tabernacle, or holy place, *Heb.* 9. 2. nor meddle with the ceremonies, but did onely the outward work and drudgery of the Lords houſe, as to bear the burthens, prepare the wood, the water, fire, veſſels, and inſtruments for the ſacrifice and holy rites, kill, dreſſe, and flea the bullocks and beaſts for the burnt-ſacrifice, yet even in this by the rules of equity they deſerved a tenth part of the increaſe of the Land; yea, the Miniſtry of the Prieſts themſelves was but in earthly and tranſitory things, as in types and ceremonies to foreſhew a better Teſtament, yet becauſe their vocation was more honourable then the reſt of the *Levites*, as being called into the Sanctuary, and to perform the holy ceremonies, therefore they received a more honourable portion; for firſt, they had the Tithe of their brethren the *Levites* part, that is, the tenth part of the tithe of all the land, which becauſe they were but few in reſpect of the whole Tribe of the *Levites*, as not the 40. part perhaps, therefore the allowance of every one of them was much greater then of any other *Levite*, and yet to encreaſe it, they had the firſt-fruits, and their portions and fees out of the ſacrifice and other offerings, and all theſe great allowances had they for their ſervice about the earthly Sanctuary, or as it is called in the Epiſtle to the *Hebrews*, 9. 1. *the worldly Tabernacle.*

Come then unto the Miniſters and Clergy of our Church, look upon them with the eye of common equity, compare them with the *Leviticall* Miniſtery, what proportion their deſerts hold one to the other: ſurely though it be an axiome of Philoſophy, yet it holdeth alſo in Divinity, that *Eadem eſt ratio partium quæ eſt totius*, there is the ſame reaſon of the parts that is of the whole; therefore if the Prieſthood of our Saviour be much more excellent then that of *Aaron*, & the Miniſtration of the Goſpel, then that of the Law, then much more excellent muſt the members be of the Goſpel, then of the Law. And as their calling is more honourable, ſo is their charge, as having the care of ſouls committed to them, for which they muſt give a ſtract account: the *Levite* and the *Leviticall* Prieſt were free thereof, and ſtood onely charged with the performing the ordinary ceremonies, and no further. Their paines much more laborious then the *Levites*, who neither were burthened with preaching, nor ſerved any where, but in the Temple at *Jeruſalem*, and not above a week at a time, and notwithſtanding had their corrodary, or allowance in the vacation. If then the *Levite* and Prieſt of the Law had the tenth part for his entertainment, how much rather is it to be conferred and enlarged upon the Miniſters that inveſt us with ſpirituall and heavenly bleſſings; that as I ſay are called to a more excellent function, and conſequently deſerve a more excellent reward; that have a great charge committed to them, and conſequently much great travell and labour in performance thereof? The *Levite* travelled onely in body, but the Miniſter of the Goſpel both in

Though the *Levite* be ſaid, 2 *Chron.* 25. 3. to teach all *Iſrael*, yet it ſeemeth not that they expounded the Word of God unto the people, or had it in charge ſo to doe, but that they inſtructed them how to carry themſelves in their ſacrifices & ceremonies: therefore *Jerome* tranſlateth this place, *Levitis quoque ad quorum eruditionem omnis Iſrael ſanctificabatur Domino.*

in body and minde: he muſt not onely doe the part of the *Leviticall* Prieſt, which is to perform the ordinary ſervice, ſacraments, and rites of the Church, like the oxe that treadeth out the corn that is brought home, but he muſt be alſo like the Dove of the Ark, he muſt flie about to ſeek and fetch home to his Pariſhoners the bleſſed olive branch of peace. He muſt be like *Solomons* Eagle, whoſe [way is in heaven], there ſeeking food for his Pariſhoners: and like that Eagle (that God compareth himſelf unto, *Deut.* 32.11.) that dreſſeth up her neſt, floteth over her birds, ſtretcheth out her wings, taketh and beareth them upon her wings, (the feeble and ſick ſouls of his Pariſhoners) always teaching, comforting, ſtrengthning, and confirming them committed to his charge; and thus ſhall he dearly earn the portion aſſigned to him.

Some then will ſay, this is like *Simon Magus*, to ſell the grace of the holy Ghoſt. No, Miniſters muſt be no Merchants, they muſt in no caſe ſell Doves, *i. e.* the holy Ghoſt; (Chriſt did drive them out of the Temple) but the people muſt be juſt; piety, juſtice, and the law of nature requireth that every man render a reward to the labourer, not onely according to his labour, but with reſpect of his function, and the quality of his perſon; the Miniſter muſt not ſell the breath of his mouth, but he may ſell the ſweat of his brows, hee may not ſell his doctrine, but hee may take reward for his travell. It is Gods commandement to *Adams* poſterity, *In the ſweat of thy face ſhalt thou eat bread*, *Gen.* 3.19. much precious ſweat doe many worthy Miniſters diſtill for us in their function, which God no doubt putteth up in his bottle, and therefore they muſt have bread for it: much labour in reading, writing, watch-

watching, ſtudying, preaching, and praying; many pined and waſted herewith; *for much reading* (the holy Ghoſt ſaith it) *is a wearineſſe to the fleſh*, and willeth man to take heed of it, *Eccleſ.* 12. 12. and therefore if there were no more in it but ſo, a worthy reward is due unto them; but beſides this, they miniſter unto us ſpirituall things, that is, things ineſtimable: and is it much then if we return them temporall things? And though ſometimes there may be found amongſt them, ſuch as *Judas* among the twelve Apoſtles, and in all ages ſome unworthy of that ſacred calling, they being ſubject to humane frailties, yet tithes are not to be denyed, becauſe they are due originally to God, who aſſigned them over to the *Levites* in the old Teſtament; for he ſaith, *I have given them to them*, Num. 18. 24. *the tithes of the children of* Iſrael *I have given to the* Levites; and in the new Teſtament to the Miniſters of the Goſpel, *for they that preach the Goſpel, muſt live of the Goſpel*; they are therefore to be paid to the Prieſt, or Miniſter, for he is the ſteward of Gods houſe, and in this point we are not to reſpect what condition he is of, for the debt is due to his Maſter, not to himſelf: ſo that whether he be good or bad, what condition ſoever he be of, he ſtandeth or falleth to his own Maſter.

CAP.

## Cap. XIV.

### *The Etymology, and definition of Tithe; and why a tenth rather then any other part is to be paid.*

DEcima, and *decuma*, in the plurall number; or *decima*, and *decuma*, in the ſingular, (which *Tully* moſt uſeth) in Greek, δέκας, *quaſi* δεχάδα, i. *capacem*, ſaith *Philo*: ἀπὸ τῦ δέχεσθαι, *à capiendo*, becauſe it comprehendeth all other kind of numbers, as more largely hereafter ſhall appear: and becauſe this part ſhould of all the reſt be the beſt and the largeſt which in our Engliſh we commonly call, Tithe: of the Saxon word Teoða, *i. e.* the tenth: and Teoðan ꝛceattaꝛ, tithes: of the verb *Teo*, i. *traho*, *extraho*, & Tieh ð, *Subtrahit*, as if we ſhould ſay, the choice part, or the part that is taken and choſen from the reſt for God himſelf, which whether it be the tenth or not, yet it is generally comprehended in Latine under *decimæ*, and in Engliſh under the name Tithe. *Omnia ſua decimabant* (ſaith *Auguſtine*) *& de omnibus fructibus ſuis decimam partem detrahebant & ipſam dabant. & paulo poſt: Teſtum decimabant, id eſt, decimam partem detrahebant, & eleemoſynas dabant*, Auguſtin. Tom. 10. p. 27. D.

For which cauſe the Latines uſed the word *decimare* & *exdecimare*, to chooſe and cull out the principall things; and our own Engliſh word, Tithe, importeth as much: for it commeth of the Saxon Teoð, *i. e.* the tenth, which is a verball of *Teo*, that ſignifieth to take out, as if it ſhould admoniſh us that the tithe or part given to God muſt bee a choice or principall part.

Before I proceed further in this Treatiſe of Tithes, I hold it fit firſt, to propoſe a definition thereof, that my diſcourſe may be the more certain. I define it therefore.

Tithe is the tenth part of that we lawfully poſſeſſe, rendred by us unto God, by way of thankſgiving for his bleſſings beſtowed on us.

*In ſum. de deci. § 1. V. Vocab. Vtriuſ. Jur. in verbo decima.*

Or according to *Hoſtienſis*;

*Decima eſt omnium bonorum mobilium licitè quæſtorum pars decima Deo data, divina conſtitutione debita, (quæ forte addit author vocabularii) ut colligitur de decim. Ca. 1. & ca. Parochianos, C. noneſt. Ca. tua nobis § verum. C. non ſit ab homine--vel; Decima eſt omnium bonorum juſtè adquiſitorum talis pars Deo debita.*

*Raymundus.*

1. This definition leads us firſt to examine why the tenth part, rather then any other ſhould be yeelded unto God.
2. Secondly, out of what it is to be yeelded: all that we lawfully poſſeſſe.
3. Thirdly, unto whom it is to be rendred; unto God.
4. Fourthly, in what manner it is to be rendred, *viz.* by way of thankſgiving.
5. Fifthly and laſtly, upon what conſideration it is to be rendred; and that is for his bleſſings beſtowed upon us.

I have not read why in this matter of Tithing the tenth in number ſhould be rather allotted unto God, then any other: and therefore wanting a guide to direct me, I will walk this way the more reſpectively; but according to mine own apprehenſion I obſerve two reaſons thereof, one Myſticall, the other Politicall. Touching the firſt, as *Plato* and the *Pythagoreans* attributed great myſteries and obſervations unto numbers: ſo doe likewiſe all the greateſt Doctors of the Church, and the very books of God themſelves, and therefore it is not to be thought that in this point of rendring Tithes, but the number of 10. is alſo reſpectively choſen. * S. *Auguſtine* ſaith, that many things are not yet underſtood in Scripture, for that we cannot attain unto the knowledge of the vertue or power of numbers. And both he and

**Multis aliis atque aliis numerorum formis (quædam ſimilitudinum) in libris ſanctis ſeponuntur, quæ propter imperitiam numerorũ legentibus clauſa ſunt. De doctri. Chriſt. lib. 2.*

Saint

Saint *Ierome* through their whole works continually obſerve great ſecrets therein: ſo doe the reſt of the Fathers, and not onely in the Old Teſtament and Ceremoniall Law, but in the New Teſtament alſo: Inſomuch that I think there is not almoſt any number there mentioned, out of which ſome particular obſervation is not made. But to come to this we are in hand with. Let us ſee why this was allotted to God above others, and what part in reaſon is due unto him: Reaſon tels us certainly, the beſt, and the choiceſt: therefore he refuſed the unclean beaſts; the lame and the blemiſhed things: for as he is beſt worthy, ſo he requireth the beſt of every thing, the bloud of the ſacrifice, becauſe it was the life: the fat, becauſe it was the perfection of it: to be ſhort, the number it ſelf allotted to him, (the tenths I mean) if the myſteries thereof be opened, tels us, both why it was yeelded, and why above other he ſhould require it.

It is ſaid to ſignifie the firſt and the laſt, the beginning and the end; it is *finis ſimplicium numerorum, initium compoſitorum*; the end of ſimple numbers, and the beginning of compound: the firſt articular number, & the laſt number of ſingle denomination. The number wherewith the progreſſe of numeration running as it were circularly, always endeth and beginneth again. *Repræſentat* (ſaith *Bartholomeus*) *merito ipſum Chriſtum qui eſt* A, *&* Ω, *principium & finis*; that is, it worthily repreſenteth Chriſt who is *Alpha* and *Omega*, the beginning and the end. In theſe and ſuch other reſpects it is alſo ſaid to be like a circle, the greateſt and the perfecteſt body in *Geometry*, having neither beginning nor ending, (as other Attributes of God.) *Hermes* juſtly named *Triſmegiſt*, labouring to deſcribe God by the moſt ſignifica-

tive reſemblance that mans wit could attain unto, ſaid; God is like an imaginary circle, or ſphere, whoſe center is every where, and whoſe circumference no where: meaning infinite and beyond extent. And as the circle a ſphere, of all forms and bodies is moſt ſpacious and of greateſt capacity, comprehending all other, and it ſelfe comprehended of none: ſo the number of 10. comprehendeth all numbers, and is it ſelfe comprehended in none of them, neither is there any number beyond it, but that riſeth out of it. *Decas* (ſaith Saint *Ambroſe*) *numerum omnem complectitur*. It is the foot and baſe whereon all of them are founded, and it containeth not only all dimenſions, but to be ſhort, all the reaſons of *Arithmetick*, *Geometry* and *Muſick*. Therefore *Philo Judæus* ſaith, they that firſt gave names unto things (for they were wiſe) ſeem to me to have named *decadem*, that is, the number of 10. *quaſi* δεχάδα, i. *capacem*, ἀπὸ τῦ δέχεσθαι, *à capiendo, quod capiat & amplectatur omnia genera numerorum, rationum ex numeris collectarum, proportionum, harmoniarum, rurſus & concentuum, proprie appellaſſe, i. e.* of taking or comprehending, for that it taketh or comprehendeth all kindes of numbers, of reaſons gathered out of numbers, of proportions, harmonies and concordances. In this manner the number of 10. repreſenteth unto us (as ſuch things may) the nature of God, the perfecteſt, the greateſt, comprehending all, and comprehended of none, the beginning and the end, yet infinite and without beginning or end. So that this number (10.) this tribute money in queſtion hath (in the reſpects before alledged) the apparent image of God, and therefore let us ſee whether it hath his inſcription or not; for ſure if it hath his image or inſcription, it is due unto him by his own words, his own argument. The

*De Abraham Patriarch. l. 2.*

*Hebrews*,

*Hebrews*, & from them the *Græcians* expreſſe it by the letters that begin his greateſt and eſſentiall name, *Jehovah*; that is, י & *i*, *jod* & *iota*. The *Romanes* and wee of the Weſtern parts of the world, one while by the letter *X*, & another while by the figures 10. All know that the letter *X* ſignifieth ten, and the learned alſo know, that it likewiſe ſignifieth the name of Chriſt; for commonly in ancient times, and to this day in many books it is ſo written, $X^{\cdot}$, or $X^{s}$, $X^{i}$, $X^{o}$, $X^{m}$, for *Chriſtus*, *Chriſti*, *Chriſto*, *Chriſtum*: and in like manner for *decimus*, *decimi*, *decimo*, *decimum*, in the time of the Law it was marked with the letters of the Fathers name, in the time of grace with the Sons name. Yet the truth is, that the letter *X* thus uſed for the name of Chriſt, is no Latine letter, but borrowed from the Greek, where it ſignifieth *Ch*, becauſe it repreſents not onely the name, but the Croſſe of Chriſt, in which the Latin letter *X*, as the number and character of ten, hath alſo much hieroglyphicall ſignification. To come to the *Arithmeticall* figures that expreſſe it, which are the figure of 1, and the cypher o, 1 ſignifieth the ſame that *Alpha* doth in Greek, that is, one. The cypher o, preſenteth to us, *Omega*, for *Omega* is no more but great *O*, and in ancient time was noted onely by circle, or cypher, and in effect ſtill is: ſo that 10. in figures expreſſeth Α and Ω. As Α is the firſt letter in the Greek Alphabet, and Ω the laſt: ſo in the Alphabet of *Arithmetique*, the figure of 1, is the firſt, and the cypher o, is the laſt; therefore in like reſpect the figures of this number of 10. ſignifieth the firſt and the laſt, the beginning and the end. But as the cypher o, in this reſpect ſignifieth the end, ſo we muſt mark that it is a circle, and hath no end. Being therefore joyned to the figure of 1, which ſignifieth the beginning, it ſheweth unto us, Mat. 22. 21.

that the beginning is without end,& the end it ſelf without beginning or end,both infinite & without any limit. The firſt character in the figure of 10,*viz.* 1.begetteth al numbers(for it is *ſemen numerorũ*)& is begotten of none: ſo that it is *unus & omnis*, one and all ,and ſo do the very figures ſignifie *in notis antiquorum*, according to *Valerius Probus & P. Diaconus*. Therefore to conclude , it hath both the image of God, in ſignification of his nature, and the inſcription of his name in the frame of the characters and figures; In all languages and with all Nations after one manner or other, as though nature her ſelf had taught them that this part belongeth to God, which by no wit, or any learning can be applied to, or found in any number between 2, and millions of thouſands. *Reddite ergo quæ ſunt Cæſaris Cæſari, & quæ ſunt Dei Deo.* Give unto *Cæſar* the things which are *Cæſars*, and unto God, the things that are Gods.

Mat.22.21.
Mar.12.17.
Luke 10.25.
Joh.13.7.

All that we have belongeth unto him , yet is he pleaſed to accept a part onely ; but we muſt note further, that it is ſuch a part as implieth the whole, becauſe the whole is his. He loves not to have a piece of us ſimply, it muſt be ſuch a piece as comprehendeth all in effect ; therefore when he ſaid, *Give me thy heart*, it was as much as, give me all : for he will have all or none. Therefore in his ſacrifice hee ſpecially required the head, and the tail;the head as *principium*,the tail as *finem*; the beginning and the end of all our actions : for ſo the whole is his. And in the ſame ſenſe the Law of the Land did anciently reckon thoſe parts. For though the whole Fiſh Royall belongs to the King, yet *Bracton* ſaith, it ſufficeth if he have the head and the tail ; for that in thoſe parts the whole is implied : and conſequently when we give God the tithe, or tenth part , we

*Decima omnia complectitur. Bullinger in 7. Heb.*

pur

put him in poſſeſſion of all, yea, we put the nine parts remaining into his protection; for the number of ten in like reſpect implieth the whole, as *Philo Judæus* diſcourſeth it. And ſo alſo doth Saint *Auguſtine* expound it, and therefore thinketh that by the 10. horns in *Daniel* is meant the whole ſucceſſion of Kings in the Roman Empire.

*Lib. de 10. præcep. fol. 75, 76. & ſeq.*

*Quid ſi numero iſto denario univerſitas regũ ſignificata eſt? De C. D. lib. 20. 23.*

The ſame Father yet further ſaith, that the number of 10. ſignifieth the Law of God, *Quia in decem præceptis lex data eſt.* And in another place, *Denarius legem (ſignificat) undenarius peccatum: quia tranſgreſſio eſt denarii* 1. The number of 10. ſignifieth the Law, and for that the number of 11. exceedeth it, the number of 11 ſignifieth ſin. Therefore becauſe God hateth ſin, and hath made the number of 10. to be as it were the number of perfection, and righteouſneſſe, (for ſo likewiſe doth Saint *Auguſtine* tearm it) when he requires the number of 10. of us, it puts us in mind, that he requireth alſo the fulfilling of his Laws, and the keeping of his Commandements.

*Decima hora: numerus iſte legem ſignificat quia in 10. præceptis data eſt lex, in cap. 1. Evang. Joh. Tract. 7. To. 10. Serm. 15. de verb. Domini in Evang. Mat. Ser. 15. Tom. 10*

That God accepted the tithe, or tenth, as, and for the whole of that whereof it is yeelded, is apparent by Gods own expoſition, for when he had reſerved it to himſelf, as his rent out of the Land of *Canaan*, given by him to the children of *Iſrael*, and aſſigned that rent over to the *Levites* for their maintenance, yet out of that aſſignment, he reſerved alſo a tithe, or tenth part, to be laid up in the chambers of the treaſure houſe, to be offered to himſelf, as it were thereby to hold his poſſeſſion, and to keep ſeiſin of his inheritance, which in the 18. of *Num.* 20. is called an heave-offering: and this very heave-offering, which was as I ſay, but the tenth part of the tenth, that is, the 100. part of the whole, was accepted

cepted and taken by God, as the full ſeiſin and ſatisfaction for the whole; therefore he biddeth *Moſes* ſay to
Numb.18.27. the *Levites*, ----*Your heave-offering ſhall be reckoned unto you as the corn of the barn, or as the abundance of the wine-preſſe:* that is, the tithe that you are to give, though it be the hundreth part, yet I will accept of it, as if it were all the corn of your barn, and of your fields, and as the whole profits, even as the abundance of your Vineyards. In like manner alſo doth he accept the fat of ſuch offerings, in the 29. *v.* to ſhew unto us, that ſince all is his, he will have perpetuall ſeiſin of the whole, and will not be diſinherited of the leaſt part.

Doubtleſſe he is well pleaſed with this tenth part, for when he threatned the deſtruction of the Land by *Iſaiah*, he concludeth, yet there ſhall be a tenth part remaining as to repleniſh it again, and as holy ſeed, *Iſa.* 6.13. he will ſave his own part. We have received all things of the fulneſſe of God, therefore out of our fulneſſe it is fit that we render ſomething back unto him, not by way of reward, but in honour of him. This number is alſo ſaid to be the number of fulneſſe, and to ſignifie the greateſt things, wherein as numbers have their
*Tom.10.fol.15.* *ſecreta* and *latebras*, to uſe Saint *Auguſtines* words, ſo hath this number above all other a peculiar ſecret and bleſſing given unto it, as if God had marked it for him-
2 Chro.31.10. ſelf; for as God in *Hezekiah's* time, bleſſed the offerings and tithes in abundance, ſo it ſeemeth the word abundance, *(plenitudinem) Exod.* 22.29. is uſed for the tithe and firſt-fruits: and it hath of old been obſerved that in naturall things, the tenth is uſually the fulleſt and the greateſt: the tenth floud, and the tenth egge. *Feſtus,*
Lib.4. and many other Authors doe affirm it: and to that purpoſe *Ovid* ſaith,

*Vaſtius*

*Vastiùs insurgens decimæ ruit impetus undæ, i. e.*
The whole force of the tenth floud, wave, or billow, rising up more hugely then all the rest, rushed into the the ship. And *Valer. Flaccus* tearmeth it, *---Decimæ tumor cæduus undæ*, the high swelling of the tenth wave: so likewise is it noted by *Silius Ital. Lucan, Seneca.* *Lib.14. Pharsal.5. In Agamem.*

And this observation amongst the Ancients hath been so notorious and remarkable, that they commonly used the word tenth in Latine, *decimus, decumanus & decimanus*, to expresse the greatest things; therefore in the division of their fields, they called the greatest extent, *decumanum limitem*; the greatest or chief gate in their Camp, *decumanam portam*; the greatest shields, *decumana scuta*; and so likewise, *decumanos fluctus*, and *decumana ova, decumanũ acipenserem:* & upon the like reason they used the word *decimare, & exdecimare*, for to choose and cull out the choice and principall things, as *Perrot* reporteth. And because in the procreation of men, and many other living creatures, the number of 10. is most happy and effectuall, as the tenth month in some, and the tenth week in others; the *Romanes* admired the secret vertues of this number so superstitiously, as they canonized it among their gods by the name of *Decuma*, as you may read in *Tertullian, Gellius*, and many other. And for this cause *Romulus* closed up the year in the compasse of ten months, as the time of fulnesse and perfection. *Cic. in Verrem.*

I will prosecute the mysteries of this number no further, but conclude with *Philo Judæus*, that he that should run into the Mathematicall powers and observations thereof, hath work enough for a large Volume. *Satis amplum ex se ad librum conficiendum præbet argumentum. Phil. de 10. præcep.*

*De ratione decimarum, & denario numero, pluribus agit*

*git Philo lib. de congreſſ. quær. erud. gratia.*

X

*Exprimit antiquis hæc Chriſtum littera ſcriptis:*
*Exprimit & partem quam petit ille ſacram.*
*Ergo citus, Chriſti quæ ſunt, date munera Chriſto.*
*Cæſaris accipiat Cæſar: uterque ſuum.*

This X of old expreſt Chriſts holy name,
And eke the ſacred Tenth which he doth claime:
Give then to Chriſt, what's Chriſts, without delay.
Give *Cæſar*, *Cæſar's* due, and both their pay.

## CAP. XV.
### *Who ſhall pay Tithe.*

THe Laws and Commandements of God, are commonly given in the ſecond perſon ſingular; as, *thou ſhalt love the Lord thy God*; *thou ſhalt not ſteal*. And ſo here, *thou ſhalt not keep back thine abundance*, that is, thy firſt-fruits and tithes; and, *thou ſhalt give the tithe of all thy encreaſe, &c.* a Pronoun of particularity, (thou) for the Adjectives of univerſality, *Nullus & omnis*; as if he ſhould ſay, None or no man ſhall keep back his abundance: And all men ſhall give the tithe of all the encreaſe. For it is an axiome in Logick, that, *Indefinitum æquipollet univerſali*, Indefinite propoſitions are equivalent with univerſall: And ſo every man muſt pay tithe; Every man, ſaith Saint *Auguſtine*, *Quia omnia Dei ſunt, per quæ vivit, &c.* becauſe all things whereby he liveth are Gods, whether it be the Earth, or Rivers, or Seas, or all the things that are under, or above the heavens.

*Quia omnia Dei ſunt, per quæ vivit, ſive terra, ſive flumina, ſive ſemina, vel omnia quæ ſub cælo ſunt, aut ſuper cælos. De vocatitud. Gath. converſ. Tract. Tom. 4.*

vens. *Abraham* and *Jacob* paid tithes, and therein bound all whosoever bee of their posterity to doe it. Even *Levi* himself, who after received tithes of his brethren, was bound thereby, and paid them in the loins of *Abraham*, (as it is said in the 7. *Heb.*) 400. years before he was born, and we also as *Abrahams* children. For if the *Levites* themselves, that (as the mean Lord, to use the Lawyers tearm) received tithes of their brethren, were not freed from paying them over to the Lord Paramount, God Almighty, how much more are all wee bound of what sort and condition soever to pay them likewise? But some happily will ask, if the *Levites* paid tithes? yea, they did pay the tenth part of their living to God, as well as their brethren, as before wee have touched it in speaking of the heave-offering, and as it is manifest in the 18. of *Numbers*, *v.* 26. *Speak unto the* Levites (saith God to *Moses*) *and say unto them, when ye shall take of the children of* Israel *the tithes which I have given you, of them, for your inheritance, then shall you take* (elevationem) *an heave-offering of the same for the Lord, even the tenth part of the tithe:* which in the next verse save one, they are commanded to deliver to *Aaron*, Gods generall Vicar in spirituall function. And in the 10. of *Nehem.* it is further said, *The Priest the sonne of* Aaron *shall bee with the* Levites, *when the* Levites *take tithes, and the* Levites *shall bring up the tenth part of the tithes unto the house of our God, unto the chambers of the treasure house.* So then the *Levites* themselves paid tithes, and by their example the Clergy of our time must doe it likewise; but the question will be then, to whom? First, let us see what became of these tithes Paramount, thus laid up in the treasury. We must understand that the Treasury of the Temple was not particu-

larly for that purpoſe, but for the gueſts and offerings alſo whatſoever dedicated and given to God: and I find that of this Treaſury there were 3. ſorts: *Meſack*, where the munificent gifts of Kings and Princes were laid up: *Corban*, where thoſe of the Prieſts: and *Gazophylacium*, whereinto the people and all paſſengers brought their offerings, and into which the poor widow, as it ſeemeth, caſt her two mites. I find not any particular limitation of theſe Treaſuries, but the common end of them all was to be employed upon things neceſſary for the houſe and ſervice of God, and for relief of the poor, and of orphans, widows, and ſtrangers. *Joſephus* expoundeth *Corban*, for the very gift it ſelf offered by them that dedicated themſelves to God, as the *Nazaræi*, and ſheweth that the Prieſts diſpoſed it to the needy. And to theſe ends muſt our Clergy give and pay over their owne Tithes unto God, firſt, in repairing and maintaining the houſe and ſervice of God, as 2 *Kings* 12.4. then in alms and charitable devotion to the poor: for the poor are Gods Publicans, and by him appointed to gather and collect this rent or cuſtome due to him, and to carry it into his Treaſury of heaven, as the Porters thereof, there to be laid up for our uſe and benefit in the world to come. *Decimã Deo in pauperibus vel in eccleſiis donet*, ſaith S. *Auguſtine*. Let him give it to God either in beſtowing it upon the poor, or in the Churches. Though Chriſt he aſcended into heaven in his perſon, he is ſtill upon earth by his Proctors and Subſtitutes, the poor and needy; and therefore a Father (*Jerome* I take it) anſwereth *Mary* when ſhe complained, that they had taken away the Lord; Oh, ſaith he, but they have not taken away his ſervants, meaning the poor and needy, on whom ſhee might abundantly expreſſe her charity. As the Law of God

*Antiq. Iud. l. 4. ca. 3.*

*De rectitud. Cath. Converſ. Tom. 9.*

*Suſtulerunt dominum, at non ſervum.*

God enjoyned the *Levite* to pay tithe to the high Prieſt: ſo alſo the old Law of the Land bindeth our Biſhops themſelves to pay Tithes, yea, the King himſelf. I command my Sheriffes (ſaith *Ethelſtane*) through my Kingdome in the name of the Lord, and of all the Saints, and upon my love, that they preſently pay my own Tithes to the uttermoſt, both of living things, and of the fruits of the earth; and that the Biſhops doe the ſame of their own goods, and alſo my Aldermen and Sheriffes.

*Tom.* 1. *Concil. Britan. pag.* 402.

And the very glebe Land of the Parſon himſelf, if it be letten to another, muſt pay tithe, as was adjudged in the Kings Bench this Term *Sancti Hillarii*. *Quære.*

## Cap. XVI.

### *Out of what things Tithe is to be paid.*

IT is recorded in *Geneſis*, that *Abraham* before his name was changed, *Gave him tithe of all.* And *Jacob* in the 28. *ca.* ſaith: Of all that thou ſhalt give me will I give the tenth unto thee. In the 27. *Lev.* *All the tithe of the Land of the ſeed of the ground, & the fruits of the trees is the Lords, it is holy unto the Lord:* and in the 14. *Deut.* 22. *Thou ſhalt give the tithe of all the encreaſe of thy ſeed that cometh forth of thy field year by year:* that we ſhould bring the tithes of our Land unto the *Levites*, that the *Levites* might have the tithes (in all the Cities) of our travell or labour. So in the 2 *Chro.* 31. 5. *they brought the tithes of all things abundantly*; & v. 6. *they brought the tithes of bullocks, and ſheep, and the holy tithes, which were conſecrated unto the Lord their God*, i. *by a vow.*

Gen. 14. 20. Hcb. 7. V. 30.

In theſe general precepts there needeth no particular enumeratiō of what ſhould be paid, they run upō the word

All; & without exceptiõ, all whatſoever the ground yeeldeth either by induſtry, or naturally, corn, wine, oyl, the fruits & increaſe of every thing, whether living or vegelative. And more then ſo, for even thoſe things that are gotten by labour and travell; for therein we have our part of his mercy and bleſſing, as well as in his other
Nehem. 10. 37. gifts & bounty. And the words in *Nehe.* [in all the Cities] ſeem to extend to the handy-crafts-men, for Citizens commonly occupy not fields, or husbandry, which is rather proper unto the Villages & Country people: So that if Citizens ſhould not yeeld the tithe of their travel, moſt of them ſhould yeeld nothing at al, *and no man muſt appear*
Deut. 16. 16. *before the Lord empty*, *Exod.* 23. 15. for he hath ſhewed mercy upon all, and he will have ſome acknowledgement from all. This upholdeth the cuſtome of many places of *England*, where the very ſervants pay a tithe out of their wages, ſome deduction being made for apparell: and by like reaſon I think, that thoſe that have Annuities and fees, as Officers and ſuch like, ought to yeeld a tithe thereof; for out of thoſe the King hath his Subſidies and tenths, and by like, yea better reaſon ſhould God have his portion: *Of all that thou ſhalt give me*, ſaith *Jacob*, *will I give the tenth unto thee*; and in the Goſpel, the *Phariſee*, though braggingly, yet according to the uſe of the righteous of that time, ſaith, *I give tithe of all that I poſſeſſe*; as it ſeemeth, even of his goods, and dead commodities, as of the fruits of the earth. For I ſuppoſe that the Ancients paid tithes in two ſorts, ſome *ex præcepto*, others, *ex arbitrio*, or *placito*; ſome by commandement of the Law, others out of their free-will and benevolence. In the 31. of the 2 *Chron. v.* 6. it is ſaid, They brought the tithes *Boum & pecudum*, of oxen and ſheep, things tithed before whileſt they were young

The tenth of bullocks and ſheep, and all that goeth under the rod commanded, Lev. 32.

young, as I conceive, and not now again to bee tithed, when they were grown to their full ages. So in the 10. of *Nehe.* 37. they brought first-fruits of their dough, yet no doubt, their dough was tithed before in the corn it was made of: therefore I take these tithes to be tithes *ad placitum*, in the election of the party, whether he will give them or not; but if he doe allot them to God, he is tyed like *Ananias* and *Sapphira* to perform them faithfully, for they then become due *ex præcepto*; for he that voweth unto the Lord, is commanded not to break his promise, *Numb.* 30. 3. And these kind of tithes no doubt were often paid by the godly, sometime upon generall occasion, as that of *Hezekiah*, sometime of particular, as that pretended by the *Pharisee*.

Military spoil, and the prey gotten in war is also tithable, for *Abraham* tithed it to *Melchisedek*, and thereof, if we may depart a little out of the circle of holy Scripture into the Histories of the *Gentiles*, (who even by instinct of nature found this duty to belong unto God) we abound with examples thereof: as paid by *Cyrus* at the taking of *Sardis*; by *Furius Camillus*, upon the overthrow of the *Veians*; by *Alexander* the great, upon his conqueſt of *Arabia*, when he sent a whole ship laden with frankincense for the Altars of his gods. But occasion to speak of these shall serve me better afterward, and therefore to return to that is more materiall. The example of *Abraham* in this point of tithing the prey, teacheth us also, that we give God a tithe out of every accession of wealth, that he sendeth to us in any course whatsoever: so that the gains of buying and selling, and the great improvement arising by merchandise, is under this title both registred and commanded. I know not what the rich City of *London* doth in this kind.

*Herodot. Clio. lib. 1. f. 36.*
*Livy li. 5.*
*Pliny l. 12. c. 24*

*Melpom. l. 4. f. 267.*

*Thalia l. 3. f. 180.*

kind, but I read in *Herodotus*, that the poor *Samians* yeelded at one time ſixe talents to that purpoſe, and that the *Siphnians* out of their ſilver and gold Mines ſent ſo great a tithe to *Delphos*, as the richeſt man of that age was not more worth.

S^t *Auguſtine* ſaith, *Vnuſquiſque de quali ingenio aut artificio vivit de ipſo decimam Deo in pauperibus vel in eccleſiis donet.* Let every man out of the trade or craft whatſoever he liveth by, give God the Tithe.

*De rectitud. Cathol. converſat. Tractat. Tom. 9. f. 250.*

## Cap. XVII.

### *That things offered to God be holy.*

I Muſt firſt explain what I mean by holy, and that is, not that they are divine things, or like thoſe of the Sanctuary, which none might touch ſave the anointed Prieſts. But like the lands and poſſeſſions of the *Levites* mentioned in *Leviticus*, ---*that were ſaid to be holy and ſeparate from common uſe, and ſeparate from man*, *Levit.* 27.28,29. that is, from the injury of ſecular perſons, and to be onely diſpoſed to and for the ſervice and ſervants of God, *defenſum & munitum ab injuria hominum*, *N. F. de rer. diviſ. L. ſanctum*, as the perſons of Emperors and Kings are ſaid to be holy and ſacred: for as the Altar ſanctifieth the offering, *Mat.* 23.19. ſo theſe things being offered to God, are by this very act of oblation made holy, and taken ſo into his own tuition, as they may not after be divorced. Wo be therfore to the *Scribes* and *Phariſees* that devour widows houſes, *Mat.* 23.14. how much more wo then unto thoſe that deſtroy the houſe of God, and by divorcing Chriſt from his Spouſe the Church, make him alſo a widower, and his Church

a widow, and ſo devour both the widows houſe, and the widow her ſelf.

But ſome are of opinion, that the Church it ſelfe is no longer holy, then while the ſervice of God is in hand therein: as the Mount and the Buſh were no longer holy then while God was there: and by that reaſon a Church and an Ale-houſe are of like ſanctity, for a man may preach in an Ale-houſe, and miniſter the Sacraments in an Ale-houſe, and occaſion ſometimes doth neceſſarily require it: And what is their reaſon hereof? why, their reaſon is, that conſecration of places, and of the implements belonging to the ſervice of God were *Leviticall* ceremonies, and therefore ended with the *Leviticall* Law. Theſe men reaſon, as if before the *Leviticall* Law there had been no rules of Gods honour: and as though the *Morall* Law, and the Law of nature taught us nothing therein: Doth not God himſelf leave the precepts of the *Leviticall* Law, and reaſon with the *Iſraelites* out of the Law of nature, *Mal.* 3. when he ſaith, *will any man ſpoil his goddeſſe?* as if he ſhould ſay, that the Law of nature hath ſanctified thoſe things that are offered unto God, and therefore will any man violate the Law of nature? Doth not Saint *Paul* reaſon alſo in the ſame ſort, when he ſaith, Deſpiſe ye the Church of God? 1 *Cor.* 11. 22. If I ſhould apply the places of Scripture that are ſpoken of the great reverence of the Temple, it would be ſaid, that that were *Leviticall*: but the office of the Temple was *Morall*, as well as *Leviticall*, and therefore though theſe be ended, yet the other, the *Morall* remaineth.

When Chriſt had caſt the oxen & doves that were for the *Leviticall* ſervice out of the Temple, yet he ſaid, that it was an houſe of Prayer, as figurating that after the ce-

remonies were ended and gone, yet the *Morall* office of the Temple to be an houſe of Prayer ſtill remained. Saint *Paul*, 1 *Cor.* 11. 22. when he ſaith; *Deſpiſe yee the Church of God?* ſpeaking it as if he wondred that any ſhould be ſo irreligious, or rather ſacrilegious to deſpiſe the Church; and no man I think doubteth but that this was ſpoken of the materiall Church, for he blameth them that did uſe unſeemly drinking in the Church.

Note. *See the firſt Treatiſe, of the rights and reſpect due.* § 10. *Of the three ſeverall places, and three functions of the Temple: and how the laſt continueth holy, for Prayer, Doctrine, and inſtruction of the people: which therefore had in it no Ceremoniall implement at all.*

## Cap. XVIII.

*Tithes muſt not be contemned becauſe they were uſed by the Church of* Rome.

IF we ſhould reject Tithes becauſe they were uſed by the Church of *Rome*, by the ſame reaſon we muſt alſo reject our Churches; but the Apoſtles uſed both the Synagogues and the Temple it ſelf after Chriſts Aſcenſion, though they were polluted with the doctrine and ceremonies of the *Jews*; and therefore we are not to reject Tithes and other things profitable to Gods ſervice, becauſe the Papiſts uſed or miſuſed them. The Cenſors ordained for Gods honour were impiouſly abuſed by *Corah*, *Dathan*, and *Abiram*, yet God rejected them not, but commanded them to be ſtill employed in ſome better courſe of his ſervice, namely, in making plates for the Altar, *Numb.* 16. 38.

And

And by this Scripture doth *Hugo* and *Origen* reprove them that judge the works of an heretique to be burned without preserving the good things in them: and the Altar to be pulled down whereat a Schismatique hath ministred. *Hugo in Genes. 16. fol. 136. a.* and *Origen in Homil. 9. sup. Num. fol.* 104.

God refused not the burnt-offering of *Gedeon*, though he made it with the idolatrous wood of *Baals* grove, yea, himself commanded it so, *Judg. 6. 26.* and in the Gospel the offerings of the proud *Pharisees* were as well received into the Treasury of the Temple as the mite of the poor widow. When *Jericho* was destroyed and accursed, yet God required the gold and silver for his holy utensils, *Jos. 6. 19.* For though filthy gains are forbidden to be offered unto God, yet good things because they have been abused, are not forbidden to be offered unto him. When the pottage provided for sustenance of the children of the Prophets was infected by him that threw in the wilde gourdes, or *colloquintida*, *Elisha* the Prophet commanded them not to be cast away, but cleansing them from their infectious venome used them still for food of the children, 2 *Kings* 4. 38. So if the pottage of the Ministers have been abused with Roman *Colloquintida*, purge the infection, but take not their pottage (I mean their Tithes) from them.

*Aristophanes* bringeth in *Hercules* laughing to see effeminate *Bacchus* clad in the Lions skin: but we may well lament to see a spruce *Castilio*, and his masking mistresse trickt and trimmed up with those Church-livings that godly and grave men in times past gave for maintenance of Gods service, and the Ministers thereof. *In Ranis.*

I can but wonder, what should move *Flacius Illyri-*

*Decimas nupeius extortas per papas. Caal. teſt. ter primo impoſitas in Concil. per Pelagium Papam Anno* 588.

*cus* (a man ſo converſant in the hiſtory of the Church) to affirm, that Tithes were lately extorted by the Popes; and that they were firſt impoſed by Pope *Pelagius* in the Councell, *Anno* 588. unleſſe his meaning be, that in elder times they were paid at pleaſure, and now firſt commanded to be paid of duty: which conſtruction (though contrary to the underſtanding of a common Reader) if we doe allow him, yet is it untrue alſo; for that Councell reciteth that they had been paid before of long time, and that by the whole multitude of Chriſtians, and as due by the Word of God, and conſequently not at pleaſure. (*Concil. Matiſconenſe.* 2. *c.* 5. *Anno* 588. *Tom.* 2.) So that this Councell did but revive and quicken the cold devotion of that time, and not inferre new matters unheard of before.

## CAP. XIX.

### *That the Tradition of ancient Fathers and Councels is not lightly to be regarded.*

IT appeareth by divers ancient Fathers and Councels, that Tithes were paid long before their times in the Primitive Church, and were unto the age of the Apoſtles, though little memory thereof remaineth in the Authors of thoſe times. And ſhall we not beleeve the Fathers received ſuch inſtruction from their elders? Doth not God bid us ask after the days of old, and the years of ſo many generations, ſaying, *Ask thy father, and he will ſhew thee; thine elders, and they will tell thee?* Deut. 32. 7. If we ſhall not beleeve them, why ſhould we ask them? and why did the children of *Iſrael* complain, that their Fathers heard not the words of the book of the Law, 2 *Kings* 22. 13. but be-

becauſe they therefore could not report it to them their children?

Shall we think nothing to be done, but what is written? doth not the Evangeliſt tell us, that if all were written that Chriſt did, he ſuppoſed the world could not contain the books, *Joh.* 21. 25? are not many actions of elder time alledged in latter Scriptures, and yet no teſtimony of them in the former? it is ſaid, 1 *Chro.* 26. 18. that *Samuel*, *Abner*, and *Joab*, dedicated many things unto God, yet their ſtory reporteth no ſuch matter. *Solomon* is noted, 1 *Chron.* 10. to have kept a famous Paſſeover: yet is there not a word of it in the hiſtory of his time. Faſting was brought into the Church before Chriſt, and the uſe alſo of building of Synagogues, but it appeareth not when, or how. *Paul* alledgeth, that our Saviour ſaid, It is better to give, then to take, *Act.* 20. 35. yet no Evangeliſt doth mention it. *Jude* ſaith, *v.* 9. *that* Michael *and the Devil ſtrove for the body of* Moſes, yet the Old Teſtament noteth no ſuch thing; how then came they by theſe inſtructions? Surely by books that are periſhed, or by inſpiration, or by relation of others: and doubtleſſe the ancient Fathers came to the knowledge of many things by all theſe ways. Firſt, by books that be periſhed, for it is manifeſt by *Euſebius*, *Jerome*, *Gennadius*, and others, that the ancient Fathers ſaw many thouſands, which are not now extant. If by inſpiration, the holy Ghoſt, that was ſent down upon the Apoſtles, and paſſed from one to another, returned not by and by to heaven, but remained actually amongſt the Fathers of the Primitive Church; and therefore what they generally taught is carefully to be kept. But if they received theſe things by Tradition, the very Tradition of thoſe firſt

ages of the Church are much to be received; for all that time, no doubt, infinite ſpeeches and actions of Chriſt and the Apoſtles (whereof many were collected by *Ignatius* and *Papias*, as *Ierome* reporteth, but now loſt) were then freſh in the mouths of every man, as not onely the Fathers of that time doe abundantly teſtifie, but our own experience alſo induceth us to conceive; for doe not we our ſelves hear and beleeve many things to be done in the time of King *Hen.* 8. that never yet were written, nor like to be?

## CAP. XX.

### *Ancient Councels and Canons for payment of Tithes.*

THe Canons attributed to the Apoſtles, come firſt in rank to be mentioned, yet I will not inſiſt upon them. Neither doth *Bellarmine* (as they are now publiſhed) maintain them to be the children of thoſe Fathers. Yet can it not be denyed that the firſt 35. of them are very ancient and neer the time of the Apoſtles; for *Dionyſius Exigu.* that lived within 400. yeares of the Apoſtles, tranſlated them out of Greek as received long before in the Eaſtern Church.

The fifth of thoſe Canons ordaineth, that all other fruit ſhould be ſent as firſt-fruit (and tithe) home to the houſe of the Biſhop and Prieſts, and not to be offered upon the Altar; adding further, that it was manifeſt that the Biſhops and Prieſts did divide it to the Deacons, and the reſt of the Clerks. And though the Greek copy in this place, calleth not theſe fruits δεκατμὺς, Tithes, yet the Canon ſeemeth to bee meant thereof, for other fruit none was to be carried to the houſe of the Biſhop, or to bee divided amongſt the Prieſts,

Prieſts, and the Deacons, ſave offerings, tithes, and firſt-fruits; therefore the old Tranſlation of the Canons out of *Zonaras*, expreſſeth it tithe and firſt-fruits. And this faſhion here received of ſending theſe things to the houſe of the Biſhop, and his dividing of them among the Prieſts and Deacons, ſheweth the great antiquity of this Canon; for it appeareth, that the firſt uſage was ſo, and that the Miniſters had *menſtruam ſportulam*, every month a basket of the offerings and tithes for their maintenance, whereupon they were called *Clerici ſportulantes*, *i.* basket Clerks.

*Vid. Cyprian. Epiſt.* 34. *&* 66. *Baron. anno Ch.* 57. *Num.* 72. *&* 145. *&* *anno* 58. *Num.* 89. And the people then offered accuſtomably to the Altar, and for the maintenance of the Prieſts.

*Concilium Agrippinenſe*, *cap.* 6. *Anno* 356. firſt decreeth, that Tithes ſhall be called *Dei Cenſus*, Gods rent: and reciting that the third part thereof, as was declared in the *Toletan* Councell, belonged to the Biſhops, yet according to the Roman uſe, they agreed to take but every year the fourth part, which upon excommunication they commanded to be paid. *Burchand. lib.* 3. *ca.* 135.

*Concil. Romanum* 4. *ſub Damaſo*, about the year 375. amongſt the Decrees thereof it is ordained, *ut decimæ atq; primitiæ à fidelibus darentur*, *qui detrectant anathemate feriantur*; that tithes and firſt-fruits ſhould be paid by the faithful. *Damaſ. pa. patrim. adiit*, *An.* 367.

*Concil. Aurelianenſe* 1. *ſub Symmacho*, *An.* 507. *Can.* 17. decreeth, that the Biſhops ſhal have every year the fourth part, or every fourth year the whole tithe. *Tom.* 2. *Con.*

*Concilium Tarraconenſe ſub Hormisda*, *An.* 517. *Can.* 8. *juxta Burchandum*, 9. *juxta Bin.* ſaith, that it was an Order,

der, *antiquæ conſuetudinis*, that the Biſhop ſhould have the third part of all things yeerly, and therefore willed it ſtill to be kept. *Burchard lib.* 3. *Ca.* 33. *Bin. Tom.* 2. *Conc.*

*Concilium Mediomatricis, Anno* willeth the Biſhops to reprove (*prohibeant*) them that would not pay Tithe without ſome reward be given them. *Bur.l.* 3. *C.* 134.

*Concilium Toletanum, Anno* 533. divideth all Church rights into two ſorts of oblations, one to be thoſe that are offered (*i. e.* given) to the Pariſh Churches, as Lands, Vineyards, bond-men, &c. and willeth that theſe ſhould be wholly in the ordering of the Biſhops. The other to be thoſe of the Altar, whereof it commanded the third part to be carried to the Biſhop, and two parts to be for the Clerks. And of Tithes it ſaith, that according to ſome, the third part yearly, or every third year the whole was ſo paid. But that they following the manner of the Roman Church, decreed, that the Biſhops ſhould have every year the fourth part, or every fourth year the whole tithe. *Burchard lib.* 3. *C.* 136. *& Bin. paulo aliter Tom.* 1.

In a collection of Canons of an uncertain Author, in the *Vatican* Library, this is attributed to *Sylveſter*, who was Biſhop of *Rome* 315. *Binnius* in a note upon this Canon ſomewhat differeth in words.

*Concilium Matiſconenſe* 2. *ſub Pelagio* 2. *Anno* 588. affirmeth Tithes to be due by the Laws of God; that the whole multitude of Chriſtians kept thoſe Laws very warily of long time, that by little and little they were in thoſe days almoſt wholly neglected. And this Councell decreeth, that the ancient uſage of the faithfull ſhould bee revived, and that all the people ſhould bring in their Tithes to them that miniſtred the

*Hoc confirm. Con. Hiſpalenſ. Tom.* 2. *Et approbat. per Gualter. & Hoſpinian. de origin. honorum eccleſiæ, ca.* 3. *p.* 123.

the ceremonies of the Church, &c. otherwiſe to bee excommunicated. *Tom.2.Con.*

*Concilium Hiſpalenſe ſub Gregorio* 1. *Anno* 590. concludeth thus: That if any man tithe not all theſe things (*viz.* before named) he is a ſpoiler of God, a thief, and a robber, and the curſings that God put upon *Cain* for his deceitfull dividing, are caſt likewiſe upon him. *Ivo. p.2. &* 174.*Tom.* 2. *Concil.*

*Concil. Valentinum ſub Leone* 4. *Anno* 858. *ca.* 10. That all faithfull men ſhould with all readineſſe offer their ninths, and tithes to God of all that they poſſeſſe, &c. upon perill of excommunication. *Tom.3. Con.*

*Concil. Rothoma. cap.* 3. nameth particularly what ought to be tithed, and commandeth to doe it upon pain of excommunication. *Burchard li.* 3. *ca.* 130. and annexeth the Councell, *Mogunt. ca.*38.

*Concil. Cavallon. ca.*18. *Anno* 813. That Biſhops, Abbots, and religious perſons ſhould pay them to Churches out of their poſſeſſions, and families where they baptized and received. *Burch. lib.* 3.*ca.*132.

And *Concil. Cavallon. c.* 1. decreeth, that all Churches with their whole livings and tithes ſhould bee wholly in the power of the Biſhops, and to be ordered and diſpoſed by him: *Burchard lib.*3.*ca.*146.

*Concil. Moguntin.*1. *ca.* 8. recited by *Burchard*, who lived about 600. years ſince, ſaith, that *Abraham* by his action, and *Jacob* by his promiſe declared unto us, that tithe was to be given to God; The Law hath ſince confirmed it, and all the holy Doctors are mindfull of it, &c. Hereof the venerable Doctor Saint *Auguſtine* ſaith, Tithes are required as a debt: What if God ſhould ſay (quoth he) thy ſelf a man art mine, and ſo forth as followeth in that Sermon of his that hereafter we

exhibit. The Councell proceedeth further, ſhewing reaſons why Tithes ſhould be paid. That if the *Jews* were ſo carefull in executing this commandement, as they would not omit it in the leaſt things, mint, and rue, &c. as our Saviour teſtifieth; how much more ought the people of the Goſpel to perform it, that hath a greater number of Prieſts, and a more ſincere manner of Sacraments? They are therefore to be given unto God, that being better pleaſed with this devotion, he may give more liberally the things we have need of. That this kind of maintenance is fitteſt for the Clergy, that they otherwiſe be not troubled with worldly buſineſſe, but may attend their calling.

That the daily offerings of the people, and that Tithes are to be divided into four parts, according to the Canons; The firſt to the Biſhop, another to the Miniſter or Prieſt, (*Clericorum*) the third to the poor, the fourth to repairing of Churches. *Burchard li.* 3. *c.*133.

*Concil. Moguntin.* 1. *cap.*10. *tempore Appæ* 4. *&* 4. *Lothar. Imp. Anno* 847. *ſub Rabano Archiepiſcopo qui ſcribit Ludovico.* This Councell admoniſheth men to pay their Tithe carefully, becauſe God himſelf appointed it to be paid to himſelf. And that it is to be feared, that if any man take Gods right from him, God for his ſins will take things neceſſary from him alſo. *Tom.* 3. *Conc.*

*Roman. Concil.* 5. *Anno* 1078. *Tom.*3. ſaith, that Laymen upon pain of ſacriledge, excommunication, and damnation, might not poſſeſſe Tithes, and Church livings, though granted by Kings and Biſhops, but muſt reſtore them.

CAP.

## CAP. XXI.

*In what right tithes are due: and first of the law of nature.*

WE have said in our definition, that they be due unto God: now we are to shew by what right, and to prove it. First, therefore, I divide Tithes into two sorts, Morall, and Leviticall; Morall, are those which were due to God before the Law given in the time of nature. Leviticall, are those nine parts assigned by God himself, (upon giving the Law) unto the *Levites* for their maintenance, the tenth part being still reserved to himself, and retained in his own hands. Morall tithes were paid by man unto God, *absque præcepto*, without any commandement; Leviticall tithes were paid by the *Israelites* unto the *Levites*, as transacted and set over by God unto them *pro tempore* for the time being, and that by an expresse Canon of the Ceremoniall law. To speak in the phrase of Lawyers, and to make a case of it; God is originally seised of tithes to his own use, *in dominico suo, ut de feodo*, in his own demesne, as of fee-simple, or as I may say, *Jure Coronæ*, and being so seised by his Charter dated, year after the Flood, he granted them over to the *Levites*, and the issue male of their body lawfully begotten, to hold of himself in *Frank-Almoigne*, by the service of his Altar and Tabernacle, rendring yearly unto him the tenth part thereof: So that the *Levites* are meerly Tenants in tail, the reversion expectant to the Donor, and consequently their issue failing, and the consideration and services being extinct and determined, the thing granted is to revert to the

Donor, and then is God ſeiſed again as in his firſt eſtate, of all the ten parts in fee.

But we muſt prove the parts of the caſe: and firſt, the title, namely, that he was ſeiſed in fee of originall Tithes, that is, that originall Tithes doe for ever belong unto him. Hear the evidence: which I will divide into three parts, as grounding it firſt upon the law of Nature; ſecondly, upon the Law of God; and thirdly, upon the Law of Nations.

## CAP. XXII.

### *How far forth they be due by the Law of Nature.*

WHen I ſaid by the Law of Nature, my meaning is not to tie my ſelf to that ſame *jus naturale*, defined by *Juſtinian*, which is common to beaſts, as well as to men. But to nature taken in the ſenſe that *Tully* after the opinion of others, delivers it to be,---

*De nat. Deo. l. 2.* *Vim rationis atque ordinis participem, tanquam via progredientem declarantemque, quid, cujuſque cauſa, res efficiat, quid ſequatur, &c.* the vertue and power of reaſon and order, that goeth before us as a guide in the way, and ſheweth us, what it is that worketh all things, the end why, and what thereupon enſueth or dependeth. This by ſome is called the Law of Nature, ſecondary or ſpeciall, becauſe it belongeth onely to reaſonable creatures, and not generally to all living things; in reſpect whereof it is alſo called the law of reaſon, and it is written in the heart of every man, by the inſtinct of nature, as *Iſidor* ſaith, (not by any legall conſtitution) teaching and inſtructing all Nations through the whole world to diſcern between good and evill, and to affect the one as leading to the perfection of worldly felicity,

*Quis ſcribit in cordibus hominum naturalem legem niſi Deus? Aug. de ſerm. Domini in monte l. 2.*

and

and to eſchew the other, as the oppoſite thereof. This is that law written in the hearts of the Heathen, made them to be a law unto themſelves, as it is ſaid, *Rom.* 2. 14. and by the inſtinct of nature, to doe the very works of the Law of God, with admirable integrity and reſolution. This is that Law that led them to the knowledge of God that they had, whereby they confeſſe him to be the Creator, ſupporter, and preſerver of all things, ſeeing all things, knowing all things, and doing whatſoever pleaſeth himſelf, to be omnipotent, eternall, infinite, incomprehenſible, without beginning or end, good, perfect, juſt, hating evill, and ever doing good, a bleſſed Spirit, and as *Plato* calleth him, μέγιστον δαίμονα, the greateſt Spirit, that giveth all good things unto man, that guideth his actions, and bleſſeth his labours: All this and much more, did the very Heathen by this Law of Nature, conceive and pronounce of God, and therewithall confeſſed, that by reaſon thereof they were juſtly tyed to yeeld him all ſervice, honour, obedience, praiſe, and thankſgiving; but wanting grace to direct them above nature in the right ways thereof, they firſt ſwarved on one hand, then on the other, and at length they fell into their innumerable ſuperſtitions and idolatries; yet as they concurred with us in theſe fundamentall points of Chriſtian confeſſion, touching the nature of God, ſo did they likewiſe in the fundamentall courſe of ſerving and worſhipping him; as by prayer, to crave bleſſings; by hymnes, to celebrate his praiſe; by oblations, to ſhew their thankfulneſſe to him; by ſacrifice, to make atonement with him for their ſins and treſpaſſes; by honouring and maintaining his ſervants, Prieſts, & Miniſters, to expreſſe the honour, love, and reverence they

bear unto himſelf. Some are of opinion that they learned much of this from the children of God. So *Ambroſe* alledgeth, that *Plato* did of *Jeremy* the Prophet, meeting him in *Ægypt*; but it appeareth that *Jeremy* lived before *Plato* almoſt 300. years: yet it is doubtleſſe, that with their bloud and linage they deducted many particular rites and ceremonies from *Noah* and his Nephews: but theſe notions I ſpeak of, riſe out of the very law of nature written in their hearts by the finger of God, as S. *Auguſtine* witneſſeth, ſaying, *Quis ſcribit in cordibus hominum naturalem legem niſi ipſe Deus?* who writeth the law of nature in the hearts of men but God himſelf? and *Calvin* agreeth, that the knowledge of God is naturally planted in the mindes of all men; Do we not ſee at this day, the very barbarous, and (almoſt) ſavage *Indians*, agree in effect, moſt of them, aforeſaid touching the nature of God, and the courſe of worſhipping him alſo, yea, in the five ways we ſpake of, *viz.* by prayer, by ſongs, by offerings, by ſacrifice, and by honouring and maintaining his Prieſts and ſervants? who taught them this, if not the very law of nature? Me thinks I hear ſome anſwer me, the Devill; and I muſt anſwer them, that it is true, the Devil taught them to pervert theſe notions, but it is God that wrote them originally in their heart, though the Devil hath choaked and corrupted them. But ſay that the Heathen learned theſe of the children of God, whence did the children of God learn it themſelves, before the Law was given? who taught *Cain* and *Abel* to offer their firſtfruits, & to ſacrifice? *Abraham* and *Jacob* to give tithes of all that they had? *Lactantius* ſaith, that the law of nature taught to give offerings to God, and the practice of all the Nations of the world, in all ages, and in all religi-

*Inſtit. l. 1. c. 3.*

*Calv. Inſt. l. 1. c. 4.*

religions confirmeth it. As ſoon as Chriſt was born, the wiſe men that came afar off out of the Eaſt, brought offerings unto him, as directed onely by the law of nature, for they were *Gentiles*: and none uſed to viſit the Temple of God but with ſome preſents; not that God is delighted with ſuch things, but that their affections by the fruits of their devotion were made manifeſt, the Church and ſervice of God maintained, and thoſe that were in need and neceſſity, orphanes, widows, ſtrangers, and the poor people provided for and relieved; for theſe are Gods care, and are to him as the deareſt kinde of his children, and though younger brothers as touching the worldly inheritance, yet thoſe on whom he thinketh the fat Calf well beſtowed. *Donum* (ſaith *Lactantius*) *eſt integritas animi*: the gifts we give unto God are a teſtimony of our frank and open heart towards him. *An offering of a free heart* (ſaith *David*) *will I give unto thee*: out of his abundance we have received all things, and out of ours let us render ſome.

It ſeemeth this law of nature is tearmed by *Moſes* the Law of God, for he ſaith, I declare the Ordinances of God, and his Laws, *Exod.* 18.16. when as yet the Law was not given: and before, *ca.* 15.26. If Iſrael will hearken to his Commandements and keep his Ordinances, *c.* 19.5.

## CAP. XXIII.

*Tithes in the time of Nature: firſt conſidered in the time of Paradiſe.*

I Would not be ſo curious as to ſeek the inſtitution of tithes in Paradiſe: yet no man will deny but that Paradiſe was a modell of the Church, and that God had his honourary rights in all the three kindes, he now requireth them at our hands, namely, a portion of time, place, and of the fruits; of the fruits, as the tree of knowledge; of the place, as the midſt of the Garden; the time, as the cool of the day, which ſignifieth the time of reſt, and ſo the Lords day: as more par-

particularly wee ſhall ſhew by and by. Touching the fruit, it was the portion that God reſerved from *Adam* when he gave him all the reſt; and that portion alſo that juſtly and properly belongeth to God, knowledge. And therefore this part particularly was aſſigned by God unto his Prieſts, as the ſacred keepers of this his ſacred Treaſure, and therefore no other man might invade this his right and inheritance, Knowledge (ſaith *Malachi*) belongeth to the Prieſt. Touching place, what ſhould be aſſigned to the chiefeſt, but the chiefeſt? and what is the beſt and chiefeſt, but the midſt? for *medium*—and therefore the place here where Gods portion is aſſigned him, is the midſt of the Garden; and therefore into this place doth *Adam* flye as into Sanctuary, and to the horns of the Altar, when he had offended, for it is ſaid, that *Adam* hid himſelf in the midſt of the Garden: So *Calvin*, which is, the trees in the midſt of the Garden.

And touching the time, it is by all expoſitors upon the matter, applied to the time of reſt: for either they expound the cool of the day to be the evening, as *Oncalus*, or the morning, as *Calvin*; and take it in either of theſe ſenſes, it may aptly diſcover the *Judaicall* Sabbath in the firſt ſenſe, or the *Chriſtians* Sabbath in the latter. And as theſe are the times when we are to make our publick reckonings, confeſſions, and prayers unto God, and thereupon to receive ſentence of curſe or abſolution: ſo at this time, preſently God calleth *Adam* and *Eve*, and the Serpent, that is, the whole congregation of Paradiſe to a publique reckoning, confeſſion, and account; and like the great Ordinary and Biſhop of his Church, denounceth againſt them the curſe that their ſins had demerited.

If

If occaſion required, I could ſhew many other particulars wherein Paradiſe exemplified the very Church of Chriſt.

Again, theſe rights of honour are likewiſe prefigured unto us in other examples, under the age of Nature, the time I mean before the floud: for we have therein three great examples of all theſe his three rights. Firſt, in the creation of the earth he reſerved a particular place for himſelf as the place of his own reſort and pleaſure, Paradiſe; which was the very local place of his Church, and therefore out thereof he threw man, being accurſed as a prophane and excommunicate perſon. And as touching his portion of time, he figuratively ſhewed the ſeventh part of our age to belong unto him, as in reſpect of his Sabbath, when he took *Enoch*, being the ſeventh from *Adam*, to keep his perpetuall Sabbath.

And ſo likewiſe all the fruits of the tenth age, which was that of *Noah* (for he was the tenth from *Adam*) he took wholly to himſelf: making the evill parts as a ſacrifice of his wrath, to honour him by their deſtruction, and the better parts, which were ſaved in the Ark of his Church, to glorifie his name by their preſervation: ſo that in this time of nature, the full tenth of all things was paid unto God as a propitiatory ſacrifice, for of the ten ages from *Adam* hee had the fruits of one whole age, which is all one as if he had had the tenth part of every particular thing as it grew due in every particular age, and ſo the Church expoundeth in that Canon of the Councell of where it is commanded that the---

## Cap. XXIV.
### *The time of Nature, after the fall.*

LEt us take a view of the ſtate of Religion before the Law, and from thence unto the calling of the *Levites* to the ſervice of the Tabernacle. The time before the Law was the kingdome of ſin and of death, having no means propounded whereby to eſcape, but what the light and law of nature taught unto men, who finding themſelves fallen from the favour deviſed by invocation and beating of the heavens, with continuall odours and ſavours to ſeek for mercy at Gods hand, and by ſacrificing of bullocks and brute beaſts to ranſome themſelves as far as they might from his heavy diſpleaſure. Therefore in thoſe times though every man might offer oblations and ſacrifices that would, yet becauſe the order thereof might bee the more certain and reverent, both the children of God, and the Heathen alſo, ordained to themſelves particular perſons of greateſt worth, wiſdome, and ſanctity, which they called their Prieſts to take care of theſe things, to ſee them performed in ſuch manner as might make them moſt acceptable to God. Hereby grew the reputation of Prieſthood to be above all dignities, that in thoſe days the Kings themſelves in all Nations affected it as the greateſt and immediate honour under God himſelf. Yet becauſe neceſſity required ſo great a number of Prieſts for the ſervice of God, as there could not be had Kings enough for that purpoſe, therefore other inferiour perſons were alſo called to that excellent function; yet ſuch as in one reſpect or other were ſtill the nobleſt that were to be found. Therefore

even

even in that time (I mean before the Law was given) God promiſeth the *Iſraelites* that if they will hear his voice indeed, and keep his covenant, they ſhall not only be his chiefeſt treaſure upon earth, but they ſhall be unto him alſo a kingdome of Prieſts, *Exod.* 29. 5, *&* 6.

Of theſe kingly Prieſts, two are mentioned in Scripture before the Law; *Melchiſedek* Prieſt and King of *Salem*, and *Revel* or *Jethro*, Prince and Prieſt of *Midian*. Exod. 16. & 18
Of other Prieſts it appeareth in *Exod.* 19. 22. *&* 24. that there were many. *Let the Prieſts* (ſaith God) *that come to the Lord be ſanctified*; and again, *Let not the Prieſts break their bounds, &c.*

Touching theſe Prieſts we finde no mention either how they were called to their function, or how they were maintained in it; neither of them that executed that place after the Law was given till the calling of the *Levites*, which though it were a ſhort time, as not above a year and ſome months, yet muſt they have ſome maintenance and means to live on even during that time. The Prieſts of *Ægypt* had not onely lands for their maintenance, but they alſo had a certain part appointed them by *Pharaoh* to live upon; and though it appeareth not by the Scripture what this part was, yet it is plain, that it was ſuch, and ſo bountifull, as when all the other *Egyptians* ſold their land to *Joſeph* for *Pharaoh* to ſave their lives in the famine, they lived upon this part and kept their lands.

The children of God (no doubt) came not behinde the Heathen in devotion, and conſequently not in their bounty to their Prieſts; therefore though we have no authority to demonſtrate unto us the particular means wherein they were provided for, before the Law, yet

we may very probably conceive it to be much after the manner of the Heathen Prieſts of that time, for that the Prieſts and children of God being then ſcattered amongſt the Heathen, as *Melchiſedek* among the *Canaanites*, *Jethro* amongſt the *Midianites*, could uſe no rites nor ceremonies in the worſhip of the true God, but the Heathen would have the ſame in the ſervice of their gods: inſomuch as nothing is mentioned in the Scripture concerning the ſame before the *Leviticall* Inſtitutions, but it is particularly found among the *Gentiles* firſt, touching both their Prieſts and manner of ſanctifying of them, as alſo touching their offerings, altars, and ſacrifices, and the manner of feaſting at the ſacrifice of thankſgiving uſed by *Jethro*, *Exod.* 18. 12.

I infer therefore, that ſeeing the Heathen took their originall manner of holy rites from the children of God, that therefore what originall rites the Heathen had in their ſervice of their religion, that the ſame were in uſe alſo among the children of God, though they be not mentioned in the Scripture: and conſequently, that inſomuch as the Heathen univerſally paid Tithes and firſt-fruits unto their Gods and Prieſts, that therefore the children of God did ſo likewiſe from the beginning to the true God. And to this agreeth *Hugo Cardinalis*, ſaying, It is thought that *Adam* taught his ſons to offer firſt-fruits and tenths unto God: ſo that the children of God borrowed it not from the Heathen, or the Heathen from them, but both the one and the other from the law of nature; for as *Ambroſe* ſaith, God therefore by *Moſes* followed not the faſhion of the *Gentiles*: *Non ergo Deus per Moſem Gentilium formam ſequutus eſt; ſed ipſa naturalis ratio hoc habet, ut*

*quis*

*quis inde vivat ubi laborat*, in Epiſt. 1 Cor.ca.9.C.41. Col. c.

And as the examples of *Abraham* and *Jacob* do plainly confirm it to be done by them, ſo doubtleſſe was it alſo done by other of the *Hebrews*, even before the *Leviticall* Inſtitutions, and even then holden and taken to be a duty belonging unto God, as plainly appeareth by Gods own mouth in 22. *Exod.* 29. when hee ſaith, and that before the *Leviticall* Inſtitutions: *Thine abundance and thy liquor ſhalt thou not keep back:* which all Interpreters agree to be ſpoken of the Tithe and firſt-fruits of corn, oyl, and wine, and therefore *Jerome* doubted not ſo to tranſlate it, *viz. Thy tithes and firſt-fruits ſhalt thou not keep back:* wherein the word keep back, *non tardabis*, is very materially to be conſidered, as evidently ſhewing, that it was a cuſtome of old to pay theſe tithes unto the Lord, and therefore that he now required them not as a new thing, but as due unto him by an ancient uſage. That the word *non tardabis*, thou ſhalt not keep back, or delay, implieth a thing formerly due, very reaſon telleth us, and the uſe of it in other parts of Scripture doth confirm it, for the very ſame word תאחר is uſed in the ſame ſenſe, *Deut.* 23.21. *When thou voweſt a vow unto the Lord thy God, non tardabis*, thou ſhalt not be ſlack to pay it, or ſhalt not keep it back: this is not a commandement to pay or give a new thing, but to pay that is already due, the thing vowed. In the ſame ſenſe it is ſaid, 2 *Pet.* 3.9. *non tardat Dominus promiſſa*, the Lord is not ſlack in performing his promiſe, that is, not ſlacke, or holding that back which in his honour and juſtice he hath tied himſelf to pay or perform; the bleſſing he promiſed, which by his promiſe is made a debt.

## CAP. XXV.

### *That they are due by the Law of God.*

IT is ſaid in *Geneſis* in the end of the 13. *ca.* and ſo on in the 14. and in the 7. to the *Hebrews*, That whilſt *Abraham* dwelt at *Hebron*, in the Plain of *Mamre*, his brother *Lot* was carried away priſoner by the foure (*Aſſyrian*, or *Babylonian*) Kings, with all that he had, and that *Abraham* confederate with *Mamre* the *Amorite* and his brethren, *Eſcol* and *Aner*, armed his houſhold, even the bond-men as well as free, 318. in all, and purſued them unto *Dan*, where hee ſmote them in the night, and recovered *Lot* and the prey: And that as he returned, *Melchiſedek* King of *Salem*, Prieſt of the moſt high God, met him, and gave him bread and wine, and bleſſed him, and prayed and praiſed God for him: and that *Abraham* did thereupon *give him the tithe of all*. This place of Scripture is very materiall for our purpoſe, as portraiting unto us the whole modell or plat-form of the Church now under the Goſpel, even as if the one were meaſured out by the other, with a line, or rod, as *Moſes* meaſured the Tabernacle, and as if God had ſaid as he did unto *Moſes*, *See that thou make it in all things like the pattern I have ſhewed thee*, Exod. 25. 40. the laſt. We will therefore ſtay a while upon it, and conſider the action, the time, the place, the perſons, and ſome other circumſtances. The action, as having nothing in it belonging to the *Leviticall* Law, and therefore a plain direction unto us how to demean our ſelves under the Goſpel. The time, as performed before the Law was given, namely, about 300. years after the flood, both according to the rites of

In the Hebrew text it is indefinite which of them gave tiths to other; therefore the *Iews* ſay *Melchiſedek* gave it to *Abraham*, but the holy Ghoſt in the 7. to the *Hebrews* explaineth it, that *Abraham* gave them to *Melchiſedek*.

*Codomannus* ſaith in the year 293. ſome other count it above 370.

that time, and to be preſident for the time to come after the Law aboliſhed. The places where this action was performed, *Hebron*, *Dan*, and *Salem*; *Hebron*, a place in *Judah* where *Abraham* dwelt afterward, one of the *Levitical* Cities, from whence *Abraham* departed, when he went into this expedition. *Dan*, the uttermoſt limit of the holy land, whither *Abraham* purſued his enemies, and there ſlew and chaſed them. *Salem*, the place where *Melchiſedek* was King, which by reaſon of *Joſephus* his miſtaking it, is commonly taken to be *Jeruſalem*, but erroneouſly, as *Jerome* and *Lyra* explain it: for Saint *Hierome* out of the ancient *Rabbins* ſheweth it to be a Town neer ſo called in his time, and men then ſhewing the ruines of *Melchiſedeks* Palace in great magnificence. S. *John* alſo doth witneſſe it to be *Enon*, a known Town in *Jeromes* time neer *Jordan*, where the ſpring was that *John Baptiſt* baptized in: *John* alſo (ſaith he) baptized at *Elim*, beſides *Salem*, becauſe there was much water there: So that the firſt door that was opened into the Kingdome of heaven by the preaching of the Goſpel, the firſt adminiſtration of the Sacrament of Baptiſme, as S. *John* here reporteth it, was within the territories of the Kingdome of *Salem*, that is, by interpretation, the Kingdome of peace and righteouſneſſe, which Baptiſme bringeth by waſhing away originall ſin.

*Melchiſed. Dei ſacerdos, Solymorum quam civitatem poſtea Hieroſolymam vocarunt. Ioſ. Antiq. l. 1. c. 18. Hieron. in Ep. ad Euagr. et in loc. Heb. Lyra in Gen. 33.*

Joh. 3. 23.

The perſons are, *Melchiſedek*, *Abraham* and his confederates, and family. *Melchiſedek* is the image of Chriſt, King of righteouſneſſe and peace, the Prieſt of the high God, and a Prieſt for ever; for the Scripture neither ſheweth his beginning, nor his ending. A Prieſt, not anointed with materiall oyle, after the ceremony

remony of the *Leviticall* Law, not ordained for a time as *Aaron*, but eſtabliſhed with an oath by God himſelf to be for ever; and ſanctified with the ſpirituall oyle of gladneſſe above all the ranks and orders of *Leviticall* Prieſthood. *Abraham* an *Hebrew* and repreſenting the reſt of the *Hebrews*, Gods choſen people: Father of the *Jews* by Circumciſion, and by faith the Father of the *Gentiles*. His confederates, *Mamre*, *Eſcol*, *Aner*, *Amorites* and *Gentiles*, repreſenting the whole body of the *Gentiles*. The family of *Abraham*, as well bond-men as free-men, all mingled together, and all here marching as under one enſign, not of the *Leviticall* Law, which onely belonged to the *Jew*, but of the New Teſtament, embracing both *Jew* and *Gentile*, bond-men and free-men, the children of *Hagar* as well as *Sarah*. Their enemies are the idolatrous *Aſſyrians* or *Babylonians*, who ſpoil the people of God, and theſe *Abraham* purſueth, killeth, and chaſeth beyond *Dan*, that is, out of the Church.

So that *Melchiſedek* prefigurated the whole Prieſthood of Chriſtian Religion, and *Abraham* the whole Laity; therefore *Chryſoſtome* ſaith, *Conſidera quanta ſit excellentia noſtratis ſacerdotii quandoquidem Abraham Patriarcha Iudæorum progenitor Levitarum comperitur benedictionem accipere à Melchiſedec. Orat. 4. adverſ. Iud. Sed ita Paulus ipſe.*

To apply and morall this to the Church under the Goſpel: They that are the true children and conſorts of *Abraham*, whether *Hebrews* or *Gentiles*, free or bond, who now are all alike, they muſt depart out of the *Leviticall* Cities, that is, the Ordinances and Ceremonies of the Law: they muſt fight againſt the foure great Kings, the enemies of *Lot*, and of the children of God; Sin, Fleſh, the World, and the Devill. So *Hugo* expoundeth them, they muſt chaſe and caſt them not onely out of the temple of their heart, but out of the compaſſe and bounds of the Church of Chriſt, and ſo kill and ſubdue them by faith and repentance, even when they are aſleep, and thereby ſeem to have ſureſt poſſeſſion of them. Having thus con-

*Superbia vitæ, Concupiſcentia carnis, Hypocriſis, Avaritia vel concupiſcentia oculorũ.* Hugo.

que-

quered, *Melchiſedek*, our Saviour Chriſt, will meet them in their return, but where? not till they come within the territories of *Salem*, into the bounds of the Church by the ſacrament of Baptiſme; And then he will not ſtay till he be called and wakened, as he did in the ſhip with *Peter*, but as he is our ἐρχόμενος, hè will come forth of himſelf and meet them, and give them bread and wine, as *Melchiſedek* did, to ſtrengthen and confirm them, that is, the other ſacrament of the body and bloud. Then as a perpetuall high Prieſt and Mediator he doth bleſſe them, and make interceſſion for them, as *Melchiſedek* did *Abraham*, and his ſpirituall poſterity in the perſon of *Abraham*, as well *Jews* as *Gentiles*; for in the perſon of *Abraham*, *Melchiſedek* bleſſed both, the *Jews* as his children by Circumciſion, and the *Gentiles* as his children by faith. Then muſt wee doe as *Abraham* did in his own and our perſon, give tithe of all to *Melchiſedek* and his Subſtitutes. *Melchiſedek* gave bread and wine really, and we muſt alſo as *Abraham* did, give him the tithe really. And this tithe was not given to *Melchiſedek* as a *Leviticall* duty, but as a duty belonging to God both before the Law, and in the time of the Goſpel: for *Melchiſedek* met not *Abraham* with oblations and ſacrifice, like a Prieſt of the Law, but with bread and wine, the elements of the ſacrament of the Goſpel, which in figure thereof are onely remembred in this place by the holy Ghoſt; though *Joſephus* mentioneth many other rich gifts at this very time plentifully given by *Melchiſedek* to *Abraham*: So that if *Melchiſedek* in the perſon of Chriſt received tithe, then doubtleſſe is tithe due unto Chriſt, and conſequently to his Miniſters.

This is the firſt place in Scripture wherein tithes be men-

*Multo poſt futurum Domini ſacramentum ante ſignavit, ac ſacrificio panis & vini myſterium corporis & ſanguinis expreſſit.* p. To. 4. 14. c.

*Miniſtravit iſte Melchiſedek Abrahamo & exercitui xenia, & multam abundantiam rerum optimarum ſimul exhibuit, & ſuper epulas eum collaudare cœpit & benedicere Deum qui ei ſubdiderat inimicos.* Joſ. Antiquit. l. 1. c. 18.

mentioned, therefore ſome may think it the firſt time they were paid, but that is no argument; for ſo it is the firſt place where a Prieſt is mentioned, yet no doubt Prieſts were before. *Noah* performed the Prieſts office when he built an Altar, and offered of every cleane beaſt, and fowl upon it, *Gen.*8.20. And it is very likely that *Melchiſedek* himſelf had borne the office of a Prieſt many hundred years before he met *Abraham*, though the Scripture doth not mention him till the meeting; for if it be lawfull to enquire of that the holy Ghoſt revealeth not, many great Divines are of opinion, that he was *Sem* the ſon of *Noah*; (whom the *Salemites* had made their King) and it may well be, for it appeareth in *Gen.* 11. that *Sem* lived 600. years, whereof 502. after the Floud, and of them 209. in the life of *Abraham*: So that to thoſe of that new world that *Abraham* lived in, (I mean after the Floud) he might well ſeem without father or mother, or any beginning, being born almoſt 100. years before the Floud, and to have been a Prieſt for ever. And then in like conſequence he might have received tithes of divers other before he thus met *Abraham*: for that uſe was common long before among the Heathen, and likely it is, that the Heathen rather learned it of the children of God, then that the children of God ſhould learn it of them, as *Hemmingius* would have it, who ſaith, that *Abraham* gave theſe tithes of his own accord, following therein (without all doubt) the manner of Conquerors, which were wont to conſecrate the tithe of the ſpoil unto their gods, or to beſtow it upon their Prieſts. I read in *Ovid*, that *Bacchus* who lived before this time, having conquered the *Indians*, and other Nations, ſent the firſt-fruits of the ſpoile *magno Jovi*, to great *Jupiter*: but whether *Abraham*

No fiſh, as though the curſe extended not to the ſea.

*braham* either heard of it, or took it for a Precedent, that cannot I tell.

*Te memorant Gange totoque oriente ſubacto*
*Primitias magno ſuppoſuiſſe Jovi.*
*Cinnama tu primus captivaque thura dediſti,*
*Deque triumphato viſcera toſta bove.* Faſtor. li. 3.

The next place of Scripture mentioning tithes is the 28. *Gen. ver.* the laſt. *Jacob* going upon his adventure, voweth, that if God will be with him in his journey, and give him meat and cloth, and ſo that he return ſafe, then (ſaith he) the Lord ſhall be my God, and this ſtone which I here ſet up as a pillar ſhall be Gods houſe, and of all that thou ſhalt give me, will I give the tenth unto thee. *Romulus* made the like vow for building the Temple to *Jupiter Feretrius* upon Mount *Palatine*. *Tatius* and *Tarquinius* upon *Tarpeius*. *William* the Conquerour for *Battail Abbey*. But *Hemmingius* cannot ſay that *Jacob* did it by their example, for they lived too too long after him. I think rather that the law of nature and reaſon taught all Nations to render honour, thanks, and ſervice unto God, and that the children of God being more illuminate in the true courſe thereof, then the Heathen by the light of reaſon could be, firſt began the precedent, and that then the Heathen dwelling round about them apprehended and diſperſed it; for the uſe of paying tithes even in thoſe firſt ages of the world was generall, as hereafter ſhall appear. But *Iacob* doth not here bargain and condition with God, that if God will doe thus and thus, that then he ſhall be his God, and that he will build him an houſe, and pay him tithe, and otherwiſe not; but he *Liv.* A.1.

alledgeth it as ſhewing by this means he ſhall bee the better enabled to perform thoſe debts and duties that he oweth unto God, and will therefore doe it the more readily.

The actions and anſwers of the Sages are in all Laws a law to their poſterity. *Iuſtinian* the Emperour doth therefore make them a part of the Civill Law. The common Lawyers doe ſo alledge them, and the Law of the holy Church hath always ſo received & allowed them. And though Saint *Auguſtine* ſaith, that the examples of the righteous are not ſet forth unto us, that thereby we ſhould be juſtified; yet he addeth further, that they are ſet forth to the end that we by imitating them may know our ſelves to be juſtified by him that juſtifieth them. Why then ſhould we now call tithes in queſtion, ſince we find them to be paid and confirmed by two ſuch great Sages and Patriarchs, *Abraham* & *Iacob*? Yea, their payment practiſed generally by all the Nations of the world for 3000. years at leaſt, never abrogated by any Law, but confirmed alſo by all the Fathers and Doctors of the Church; and not impugned by a ſingle Author, as far as I can find during all the time I ſpeak of?

*Non ideo nobis proponi exempla juſtorum, ut ab eis juſtificemur; ſed ut eos imitantes, ab eorum juſtificatore nos quoque juſtificari ſciamus.* Aug. lib. de Catechiſand. rudibus. Tom. 4. f. 218.

Well; It will be ſaid, that all this is nothing, if the Word of God commandeth it not; for every thing muſt be weighed and valued by the ſhekel of the Sanctuary, *Lev.* 27. 25. They may by the ſame reaſon take away our Churches, for I finde not in all the Bible any Text wherein it is commanded that we ſhould build us Churches: neither did the Chriſtians either in the Apoſtles time, nor 100. yeares after, build themſelves Churches like theſe of ours, but contented themſelves at firſt to meet in houſes, which thereupon were called

*Perkins dem. Problem.* 9.

led *ædes ſacræ*. And to ſhew that they were commanded by the *Levitical* Law, will not ſerve our turn, for it will be ſaid, the Statute of repeal, even the two words ſpoken by our Saviour upon the Croſſe, *Conſummatum eſt*, *Iohn* 19.30. clearly abrogated that Law: but it is to be well examined, how far this repeal extendeth: for though the letter of it be taken away, yet the ſpirituall ſenſe thereof remaineth; for *Ierome* ſaith, that almoſt every ſyllable thereof breatheth forth an heavenly ſacrament. Saint *Auguſtine* ſaith, the Chriſtians doe keep it ſpiritually, ſo that if tithe be not given in the tenth, according to the *Levitical* Inſtitution, yet the ſpirituall meaning of providing for the Clergy our *Levites* remaineth. But with the precepts of the *Leviticall* and *Ceremoniall* Laws divers rules of the *Morall* Law are alſo mingled: as the Laws againſt Witches, Uſerers, Oppreſſors, &c. the Laws that command us to lend to our brother without intereſt, and to ſanctifie the Sabbath; for though the Inſtitution of the Sabbath be changed, yet the ſpirituall obſervation remaineth, and that not onely in the manner of ſanctifying it, but as touching the time alſo, even the ſeventh day. Notwithſtanding I find not, that the Apoſtles commanded us to change it, but becauſe they did change it, we take their practice to be as a Law unto us: yet though they changed the time, they altered not the number, that is, the ſeventh day. I will then reaſon that God hath as good right to our goods of the world, as to the days of our life: and that a part of them belong unto him, as well as the other. And the action of *Abraham* and *Jacob* may as well be a precedent to us for the one, (in what proportion we are to render them) as that of the Apoſtles in the other; for

*Singulæ pæne ſyllabæ, &c. ſpirant cœleſtia ſacramenta. Tom. 3. Paulino Epiſt.*

Not to reap every corner of our field, nor to gather our fruit clean: not to keep the pledge that belongeth to the perſon of our brother.

both of them were out of the Law; the one after it, the other before it: And why may not the limitation of the day appointed to the Lord for his Sabbath be altered and changed, as well as the portion appointed to him for the tenth? You will say, the seventh day was not due to him by the law of nature, for then *Abraham* and the Fathers should have kept it before the Law given; but it held the fittest analogy to that naturall duty, that we owe to the service of God; and therefore when that portion of time was once particularly chosen by God for his service, by reason himself had commanded it under the Law, the Apostles, after the Law was abolished, retained it in the Gospel: And so since the number of the tenth was both given to God before the Law, and required by him in the time of the Law, being also most consonant to all other respects, great reason it is to hold it in the age of the Gospel. Yet with this difference, that in the old Law the Sabbath was the last part of the seven days, and in the Gospel it is the first, because our Saviour rose from the dead the first day of the week, and not the seventh.

God is our Lord, and we owe him both rent and service: our service is appointed to bee due every seventh day, our rent to be the tenth part of our encrease. He dealeth not like the hard Landlords, that will have their rent though their Tenants bee losers by their Land, but he requireth nothing save out of their gain, and but the tenth part thereof onely. These two retributions of rendring him the seventh day of our life, and the tenth part of our goods, are a plain demonstration to us, of our spirituall and temporall duty towards God. Spiritually, in keeping the Sabbath; and temporally, in payment of tithes, that is, in providing

for his Miniſtery, and them in neceſſity; the one being the image of our faith, the other of our works: for ſeven is the number of ſpirituall ſanctification, ten the number of legall juſtification. Therefore to pay all the nine parts was nothing, if we failed in the tenth; for the tenth is the number of perfection, and therefore required above all other as the type of legall juſtification. And as our faith is nothing without works, ſo neither is the Sabbath without tithes: for they that miniſter to us the ſpirituall bleſſings of the Sabbath, muſt receive from us the temporall gratuities of Tithing.

## Cap. XXVI.

### *That they are due by the Law of Nations.*

THe Law of Nations is that which groundeth it ſelf upon ſuch manifeſt rules of reaſon, as all the Nations of the world perceive them to be juſt, and do therefore admit them as effectually by the inſtinct of nature as if they had been concluded of by an univerſall Parliament. Therefore in truth, this is no other, but that which the Philoſophers call the law of Nature; Oratours, the law of Reaſon; Divines, the *Morall* law; and *Civilians*, the Law of Nations. As far then as Tithe is due by one of theſe, ſo far likewiſe it is due by all the reſt: and conſequently the reaſons that prove it in the one, doe in like manner prove it in all the other. I will not therefore inſiſt here upon arguments, but remit you to that hath been formerly ſaid touching the law of Nature, and demonſtrate unto you by the practice of all Nations, what the reſolution of the world hath been herein through all ages.

So

So ancient it is among the Heathens, that good Divines are of opinion, that *Abraham* took example thereof from the Heathen: but others with more reason conceive it to be practised even by the children of *Adam* as well as sacrificing and the offering of first-fruits, as by the opinion of *Hugo Cardinalis* I have shewed in another place.

Besides, I find not any mention of Tithe paid by the *Gentiles*, before the time of *Dionysius* commonly called *Bacchus*, who having conquered the *Indians* sent a Present of the spoil *Magno Jovi*, as *Ovid* witnesseth; and this was about 600. after that *Abraham* tithed to *Melchisedek*.

*Cyrus* having collected a great sum of mony amongst his captives, caused it to be divided, & delivered the tithe thereof to the *Prætors*, to be consecrated to *Apollo*, and *Diana* of *Ephesus*, as he had vowed. *Xenophon in Cyro. l.* 5.

*Alexander* the great having conquered the Countries of sweet odours and frankincense sent a whole ship-loading thereof to *Leonides* in *Greece*, that he might burn it bountifully unto the Gods. *Plin. li.* 12. *c.* 24.

*Posthumius* having overthrown the Latines, paid the tithes of the spoil, as before he had vowed. *Dionys. Halicar. li.* 6. *Livius.*

*Largissime nimis.*

*Nebuchodonosor* did the like (too bountifully as *Josephus* reporteth it) to the Temple of *Belus*. *Ant. l.* 10. *C.* 13.

*Rhodopis* a *Thracian* woman, before the time of *Cyrus*, gave the tenth part of all her goods unto *Delphos*. *Herodot. Euterpe, pag.* 139.

The *Crotoniati* warring upon the *Locrenses*, vowed the tenth part of the spoil to *Apollo*: but the *Locrians*, to exceed them in their vow, vowed the ninth part. *Alex. ab Alex.* 165.

*Agis* King of *Lacedæmon* went to *Delphos*, and there offered

offered his Tithe unto God. *Xenophon de rebus gestis Gra. li.* 3.

*Agesilaus* conquered so much of his enemies Country, that in two years he dedicated above an hundred talents to God for the Tithe. *Xenoph. de Agesil. laud.*

The *Liparians* having overcome the *Hetruscians* in many sea battails, sent the Tithe of the spoil to *Delphos. Diodor.* 292. *l.* 40. ἀξιολόγως δεκάτας.

The custome of the ancient *Gauls* (and so likewise, no doubt, of our *Brittish* Ancestors) was to give all (in effect) that they got by the wars unto their gods, as *Cæsar* witnesseth, and to sacrifice the cattell so taken. *De Bell. Gal. lib.* 6. 132.

And this use of Tithing the spoile obtained in war was every where so ordinary, that *Crœsus* the King of *Lydia* being overcome by *Cyrus*, and taken into mercy told him, as advising him for his good, that he must of necessity render the Tithe of the spoil unto *Jove*, and that he should therefore set a guard at every gate of the City to prevent the soldiers from embezling of it. *Herodot. in Clio. li.* 1. *p.* 36.

I reckon up these particulars the more willingly to beget shame and remorse, if it were possible, in the soldiers of our time, that having been exceedingly enriched in this kind, have not I fear remembred God, with so much as *Crœsus* did, when he sent no more but his iron shackles to *Delphos. Herodot. ib. fo.* 37. Yet God had 7000. servants that *Elias* knew not of, and therefore I will not judge them.

As Military men abounded thus with devotion, so those of peaceable professions came not behinde them; for *Festus* witnesseth, *lib.* 4. *p.* 213. *l.* 67. That they of the old world offered every tenth thing unto God; and

*Varro* in his Book, *De re Rustica*, adviseth every man to pay his Tithes diligently of the fruits of his ground.

Therefore because the *Sicilians* were more happy in corn, then other Nations, they exceeded all other in thankfulnesse to *Ceres*, as appeareth by *Diodor. Sic.* 288. *in pede, &c.*

And for that the *Athenians* were next in that felicity, they did the like, and instituted further in her honour, *initia Eleusina*, i. the feast of the first-fruits, which for the great antiquity and holinesse thereof were, as *Diodorus* reporteth, celebrated of all the people of the world.

*Pliny* saith, the *Arabians* tithed their frankincense to their god *Sabin*, not by weight, (as sparingly) but by measure, as a more bountifull manner. *Lib.* 12. *ca.* 14. *pag.* 184. *L.* 57.

The *Æthiopians* cut not their cinnamon, but with prayers made first to their gods, and a sacrifice of 44. Goats & Rams: and then the Priest dividing the cinnamon, took that part belonging to their god, and left them the rest to make merchandise of. *Plin. l.* 12. *ca.* 19. *fol.* 286. *in pede.*

The *Siphnians* sent at one time so great a Tithe out of their silver and gold mines to *Delphos*, as the richest man of that age was not more worth. *Herodot. Thalia, lib.* 3. *fol.* 180.

*Neque Herculi quisquam decumam vovit unquam si sapiens factus esset. Cic. de Nat. Deor.*

The *Romans*, and generally all Nations, paid the Tithe of their fruits to *Hercules*, and they held it the happyest thing to vow the payment of them faithfully: and they thought that the cause that *Lucullus* abounded so much above other in wealth was, that he paid his Tithe so faithfully. *Alex. ab Alex. lib.* 3. 165.

As

As they paid their Tithes out of the fruits of the earth, ſo did they likewiſe out of their privy gains and induſtry.

*Herodotus* writeth, that the *Samians* (a ſmall people) yeelded at one time ſix talents for the Tithe of their grain gotten by merchanchiſe. *Melpom. li. 4. 267.*

And that nothing might goe untithed, the Ancients paid a Tithe of the very beaſts killed in hunting, namely, the skins thereof to *Diana*.

*Et penet in Trivia.*——————

——————*Dives prædæ tamen accipit omni*
*Exuvias Diana tholo.* —————— Papin.

So *Heſodius* offered the tripod he won at *Amphidamas* game, as the prize of Poetry, and upon the altar of the Muſes.

## Additions to the 26. Chapter of the Law of Nations.

*Theſe Laws of the Heathens are but few of many more that might have been collected, If any Reader therefore deſire to be further ſatisfied touching the practice and cuſtome of the* Gentiles, *in payment of tithes, he may abundantly receive content from M.* Selden *in his Hiſtory, cap. 3. and* Mountague *in his* Diatrib. cap. 3. *out of both ſome collections are here added.*

*Some perhaps will ſay, it is leſſe materiall to conſider their doings, ſeeing we Chriſtians have the light of* Iſrael *to direct us, and the aſſured Word of God to our guide; as for the cuſtomes of the* Gentiles, *they might in many things imitate Gods own people, but we may have recourſe to the fountain of all truth, to Him, who is the way, the truth, and the light.*

*It is true, but God himself hath been often pleased to upbraid and provoke his own people, by the example of a foolish and ignorant people, and to call heaven and earth to witnesse against his own, when they have been obstinate and perverse in their ways. And our Saviour saith, that the men of* Ninive *shall rise up in judgement, and also the Queen of* Sheba, *against them who neglected so great means of salvation and instruction, as the people enjoyed, when he and his Disciples preached to them; and that it shall be more tolerable for* Sodome *and* Gomorrah *at the last day, then for* Chorazin *and* Bethsaida, *who heard his doctrine and saw his works.*

*So doubtlesse we Christians in this last age, in this light of learning and sun-shine of the Gospel, may learn by the examples of the very Heathens, who were so precisely observant both of the quantity, the tenth, and of the quality, in giving the best of the encrease, which must needs proceed out of some secret inclination unto that practice, whereof (as in many other remains of naturall notions) they knew no reason, but were secretly inclined thereto, by that Providence which disposeth all things,* εὖ καὶ καλῶς, *or at least, from long continued practice and traditions, as they had many, taken from divine instruction at the first, though whence they had them they could not tell, not utterly abolished and obliterated in the darknesse of Pagan errors.*

Paulus Diaconus, *in his abridgement of* Festus, *doth witnesse the generall practice of the* Gentiles: Decima quæque veteres diis suis offerebant.

Diodorus Siculus, lib. 4. *saith, That* Hercules *being very well pleased with the kindnesse of the Inhabitants of* Palatium, *foretold them, that after his Canonication those that would consecrate the tenth part of their substance unto* Hercules, *should be very fortunate and prosperous in the whole*

*whole course of their life: which continued, saith* Diodorus, *a custome unto my time; and he lived in the days of* Julius Cæsar. *And prosecuting the point, doth instance in* Lucullus, *and other wealthy Romans, saying, Many Romans accordingly, not onely such as were of very mean estates, but also many of the richest sort have made these vows unto* Hercules, *to give him the tenth of all: and they becomming afterward very wealthy, have accordingly given unto him the tenth, their state amounting to* M. M. M.M. *Talents.* L. Lucullus, *well-nigh the wealthiest Romane of his time, making an estimate of all that he was worth, gave the tenth in oblation unto this Deity: which tenth he laid out upon many and sumptuous feastings to his honour, gifts to his Temples, and the like.*

*And these* Herculean Tenths *were,* Therumatus, *of a fair eye, given with a liberall and plentifull hand, as appeareth by that which* Sylla, Lucullus, *and* Crassus *did: So* Plautus *useth,* obsonare pollucibiliter, *to riot it, and fare as they doe that sacrifice unto* Hercules; *and* quæstus Herculeus, *exceeding great gains: which is a most sure proof how prodigally liberall these Pagans were in paying their tithes of their never so great wealth unto their poppet gods, having never heard of the* reward of the righteous, nor happinesse in heaven, *laid up for all those that so honour God. And to this doth* Tertullian *allude, speaking of the prodigality of the* Gentiles *in such Feasts.* Herculanarum decimarum & polluctorum sumptus tabularii supputabunt. *Which ready forwardnesse of theirs, shall one day rise up in judgement, and cause it to be easier in the day of vengeance for those Pagans that knew not God, then it will be for many millions of Christians, that are both witty and couragious to withhold from God his due, and defraud him of that which in his name,* Apologet. c. 39.

*and for his right ſake was given unto thoſe that intruded on his place, as an* annexum *thereto amongſt the Pagans.*

ῥωμ. ἀρχαιολογ. α

Halicarnaſſeus *reporteth, that the* Pelaſgi *in a dearth and great ſcarcity of all things, vowed, upon plenty ſent unto them, to give the tenth of all that God ſhould ſend unto them, unto* Jupiter, Apollo, *and the* Cabiri, *or the* Samothracian *Deities: intending that this miſery and ſcarcity came unto them for their former neglect and contempt of that part of piety. Vpon this vow of amendment, they had their deſire; plenty was ſent them, and then, ſetting aſide the dedicate portion, the tenth of all their encreaſe of their grounds, and of their cattell, they offered it unto thoſe gods.*

*Lib. 3. Satur. 5.*

*The perpetuall uſe and practiſe amongſt the Romans appeareth by* Trebatius, *who wrote* (*ſaith* Macrobius) de religionibus, *of the religious rites and ceremonies of the Pagans.* Trebatius *in that Book, as* Arnobius *telleth us, declareth a cuſtome yearly with the Romans; That the encreaſe of their Vintage was by ſolemn words and formalities ſet apart from ordinary and common uſe: for untill that ceremony ſo performed, whereby God did as it were give poſſeſſion unto men, He as the giver of all things, and ſo of that naturall encreaſe, had in their opinion (and this is a moſt remarkable paſſage for the right of Tithes, as they opined) right unto, and intereſt in all. Nor was it lawfull among them for any man whatſoever, to uſe his own as his own, though it grew upon his own ground, was manured, tilled, ſowed, ſet, preſerved at his coſt, with his labour and diligence, untill God had given him leave to doe it, being ſupplicated and ſollicited thereunto by this formall ceremony. This is the ſumme of* Trebatius *diſcourſe in* Arnobius.

*This is that which may ſhame and confound all Chriſtians,*

*ſtians, that acknowledge no ſuch right God hath, nor will be induced to profeſſe it ſo: this will riſe up in judgement againſt all maligners at, and detainers of the Churches portion in Tithes, Gods right, our inheritance, by better conveyance then Municipall Laws can afford any.* Cato de re ruſtica, *ca.* 132. *hath the practice and the form.*

Jupiter dapalis, quod tibi fieri oportet (*mark the word* oportet, *a matter of neceſſity, not of voluntary devotion*) in domo, familia mea, culignam vini Dapi ejus rei ergo. macte hac illace dape pollucenda eſto. *then*, manus interluito, vinum ſumito. *He that performed this ceremony, was to doe ſo, and then to ſay*, Jupiter dapalis, macte iſtace Dape pollucenda eſto: macte vino inferio eſto.

*Hujus rei cura non levis in Latio---nam flamen Dialis auſpicatus vindemiam, et ut vinum legere juſſit agna Iovi facit. Varro.*

*Nor did they thus appropriatly uſe this ceremony unto only* Jupiter, *but unto what Deity ſoever they did*, acceptum referre *their encreaſe.*

Quoties aut thus, aut vinum ſuper victimam fundebatur (*ſaith* Servius) dicebant; Mactus eſt Taurus vino, vel thure: hoc eſt, cumulata eſt hoſtia; magis aucta eſt hoſtia. *And* Cato *hath the ſame form of words concerning other ſacrifices beſides this*, cap. 130. 141. 134. Arnobius *in zeal to Chriſtian religion, derideth and ſcoffeth at this Pagan uſe and ceremony; but becauſe they did not*, recte offerre, *doe it to the true God: not becauſe they did not*, rite dividere, *doe that which was not to be done: not the thing done, but done unto* Jupiter, *and unto Idols, not to the true God of heaven and earth, was blamed. Withall he giveth us to underſtand, That this erroneous act of theirs, had beginning from a true ground: That*, The earth is the Lords and all that therein is; *that*, He hath given it to the ſons of men; *that it is*, He that openeth his hand, and filleth all things living with plenteouſneſſe;

*In 9. Æneid.*

neſſe; *that tithes and firſt-fruits are given unto God, to recognize his ſupream dominion over all: his admirable goodneſſe in giving us whatſoever we poſſeſſe: and that by giving of them back unto him, as it were a certain quit-rent unto the Lord* Paramount, *thereby we doe, and not otherwiſe, acquire unto our ſelves a right unto the Remains, with an intereſt therein, and not otherwiſe, to uſe them unto our own behoof; which if we doe not, we are but Vſurpers and Intruders. For all the world, as the* Jewes *did, who might not, durſt not meddle with the encreaſe, untill they had paid God his due, and thereby purchaſed liberty to uſe their own. Thus the* Gentiles *who had not the Law, by direction and light of nature though ſo much obſcured, yet did the things of the Law.*

*Concerning the* Siphnians *(whereof mention is made already) it is further to be remembred, what* Pauſanias *expreſly relateth of them: who ſaith*, when covetouſneſſe made them leave paying that tribute of Tithes, the ſea brake in upon them and ſwallowed up their mines; *a juſt vengeance upon detainers of Divine right, by diſhonouring of God to loſe all. So long as yearely they paid Tithe of the encreaſe, ſo long it was well with them: ſo ſoon as they defrauded God of his right, God turned them in juſtice and vengeance out of all.*

*In Phoc.*

Ariſtotle *reports, that* Cypſelus had a ſpeciall regard to the tenth, as competent to a Deity, when he vowed all the goods of the Citizens, if he could get *Corinth.* Ariſtotle *was the great dictator of learning, in whom God would remonſtrate what he could doe in meer Nature, without ſupernaturall endowments of grace; he ſpeaks directly*, That the tenth part is competent to a Deity, *and that*, He vowed all the goods; *but becauſe this vow implyed an abſurdity, unleſſe he meant, which he did not intend*

*Oeconom. 2.*

*intend to ruine the City, he was fain to have recourſe unto the ordinary uſe of Tithing: but ſo, that the Tithe* decies repetita, *ſhould anſwer the proportion of his vow:* Το δέκατον μέρος παρ' ἑκάστου ἔλαβε, *having made a rate and ceſſement of every mans goods and ſtate, he took the tenth part, for that yeer; and ſo the next for ten years together, leaving them nine parts to trade with and live upon. Every one did not ſo, but every Conquerour that would not be unthankfull gave the tenth,* ἅπερ φέρων, ὡς χαριστήριον, *unto God; with us daily, men are not thankfull as they ought; yet they ſhould be gratefull.*

Ageſilaus, *whiles he warred in* Aſia *and had the ſpoil of that wealthy Country, made ſuch havock upon the enemy, that within the compaſſe of two years, he ſent more then one hundred talents, tithes, unto* Delphos, *which proveth an ordinary* Spartane *uſe and cuſtome at leaſt.* Xenophon.

*The ſame* Ageſilaus *having vanquiſhed the* Thebans, *and their aſſociates, in a great battail at* Coronæa, *though having received many wounds in the fight,* ὅμως γε μὴν ἐπελάθετο τοῦ θεοῦ, *forgat not God, ſaith* Xenophon, *nor to be thankfull unto God.* Xen. Hellen. l. 4.

*That Retrait which* Xenophon *made with his ten thouſand men out of upper* Aſia, *is the moſt remarkable piece of ſervice one of them in all Antiquity. In this hazard,* Xenophon, *as himſelf relateth it, gave* decimam ſpoliorum, *partly unto* Apollo, *partly unto* Diana *of the* Epheſians.

*The tenth being ſeparated for theſe two Deities, was by generall conſent committed unto the Captains to be dedicated. That for* Apollo *was laid up at* Delphos *in the* Athenian *Treaſury* (for moſt Nations *of* Greece *had a ſeverall one there.*) *But with that other part,* Diana's *part,* Xenophon *purchaſed a piece of ground, and built there*

*a Temple, and an Altar, and appointed the tenth of the yearly encreaſe for ever unto that ſervice. This is a paſſage very conſiderable, there being not ſuch an expreſſe and obſervable example in all Antiquity for Tithe in this kinde with an endowment of a Church with lands. Sacred is that land unto* Diana; *whoſoever poſſeſſeth or occupieth the ground, muſt every year conſecrate the tenth unto the ſervice of* Diana, *and employ the reſt upon the fabrique and upholding of the Temple. Tithes of ſpoiles commonly paid amongſt the* Græcians, *but not accuſtomed in this ſort to be employed. A generall ſacred Revenue appropriated to a ſpeciall end; where beſides the profits and Revenues of this land tithed, what was purchaſed with the tithe at firſt, unto* Diana, *as preſident of the trade, and the chiefeſt ranger amongſt Pagans, Tithe of Veniſon and Game is ſaid in the ſame place to have been paid.*

Pag. 259. Diodorus Siculus *in his eleventh Book hath three ſeverall inſtances, for tithing ſpoils of warre; the firſt of* Pauſanias, *and the* Græcians, *that having vanquiſhed the* Perſians, *and ſlaine* Mardonius *in the field:* Set apart the tenth of the ſpoils, and therewith cauſed a *tripos* of gold to be made, which they dedicated at *Delphos*; *no vow preceding, nor other intimation being, but as done out of duty and ordinary profeſſion of thankfulneſſe.*

Pag. 270. *Another of* Cimon *the* Athenian *Generall, who remaining victor at the battail upon the River* Eurymedon, *as* Pauſanias *had done, ſo did he, ſet out the tenth of the ſpoiles, as Gods part, ſacred and dedicated unto him, to God in generall, not naming* Apollo, *or any elſe.*

Pag. 276. *In a third place, the* Argivi *having made the* Mycenians *their ſlaves and captives, conſecrated the tithes of all they took to God, and utterly raſed the Town* Mycenæ.

Porphyrie *declareth, that firſt-fruits were given unto God,*

*God, (and what is ſaid of firſt-fruits muſt be granted of tithes) out of devotion by the Pagans, of all things uſefull to the life of man: as of corn, honey, wine, oyl, cakes, and what not? Thoſe that gave nothing by way of thankfulneſſe, out of their encreaſe and ſtore, were called* ἄθεοι, *irreligious-people; not ſerving God, without piety: who never eſcaped puniſhment for their Atheiſme.* The *Thoes* a people confining upon *Thracia*, that never uſed to give God firſt-fruits of any thing which they enjoyed, nor offered any thing at all unto the Deity, were utterly deſtroyed out of the earth. *The reaſon is well given by that prophane* Porphyrie, *why men give tithe, firſt-fruits, ſacrifice, and the like, out of the ſecrets of Chriſtian myſteries,* Καὶ γὰρ πάντα τῆς θεῶν ὄντων, ἡμῶν δὲ δοκοῦσιν οἱ καρποὶ, *for all that we have or enjoy is Gods, though the uſe or enjoying thereof ſeemeth to be ours, which reaſon being eternall, and undenyable in nature, profeſſed and acknowledged by Naturaliſts, without light of grace, none can doubt, but that the practice in being was out of that perſwaſion, and ſo of duty, and neceſſary tye, which none but* ἄδικοι, *and* ἄθεοι, *as* Pophyrie *calleth them, did neglect: and for contempt whereof, even in opinion of* Pagan *Antiquity, exemplary puniſhment was inflicted on that people.* No men, nor City, nor ſtone remained, and their memoriall periſhed from off the earth, *ſaith* Porphyrie.

Lib. 2. Περὶ ἀποχῆς ἐμψυχίων.

*The learned Greek Grammarians doe teſtifie and expound, the cuſtome of tithing by the* Græcians, *as* Valerius Harpocration *ſaith:* τὰ γὰρ ἐκ τῶν πολεμίων ληφθέντα ἀφωρίζετο τοῖς θεοῖς, for they tithe all the ſpoils gotten of the enemy unto the gods. *And long before* Harpocration, *the learned Grammarian* Didymus *for his indefeſſe reading and writing, ſurnamed* χαλκέντερος, Ironſide, *or heart of Oak, ſaith, as he is cited by* Harpocration, *that properly and primarily,*

*marily,* δεκατεύσαι, *to pay the Tithe,* was καθιερῶσαι *to ſanctifie, dedicate, or conſecrate unto divine ſervice,* ἐπειδήπερ ἔθος ἦν Ἑλληνικὸν τὰς δεκάτας τῶν περιγινομένων τοῖς θεοῖς καθιερῶσι, In as much as it was a generall cuſtome amongſt all the *Græcians* to give the tenth of any their encreaſe unto the gods. *Theſe two learned Grammarians did know what was the ancient uſe among the* Græcians, *better then any man now: becauſe they did only* hoc agere, *having no other profeſſion to diſtract their ſtudies: and eſpecially becauſe both of them had*, *eſpecially* Didymus, *thoſe helps in their dayes, which none can attain now unto; the Authors being loſt, whom they ſaw and peruſed, whereby they might learn the* Græcian *cuſtomes more particularly.*

*Beſides the practice of the* Romans *and* Græcians, *other barbarous Nations did obſerve the Law of Tithing: For in the remains of naturall underſtanding & notions, the* Barbarians *had a part as wel, & often a greater part then the* Græcians *or* Romans *more civillized Nations had; and commonly the ancienteſt cuſtomes are to be found amongſt the* Barbarians, *and not among the* Græcians, *nor* Romans, *as common experience obſerveth. The* Carthaginians *ſent the Tithes of their* Sicilian *ſpoils unto* Hercules *at* Tyre, *for* Hercules *was the chief Patron and Protector of* Tyre, *and the* Carthaginians *were a* Tyrian *Colony. Nor did they ſend their Tithe once, or ſometime, or as they would, out of arbitrary devotion, but of ancient and ordinary cuſtome,* as Diodorus Siculus *reporteth; which growing into diſuſe, through negligence and diſregard in long tract of time, many dyſaſters in war, and other croſſes in affairs of State befell them. And thereupon to reconcile themſelves, and appeaſe* Hercules, *they renued again the forgotten cuſtome, and ſent thither not only the Tithe of the ſpoils, but of all things encreaſing and renuing yearly. Thus much is reported by*

Diodo-

Diodorus, *where he relateth into what ſtraits the* Carthaginians *were driven, and into how many hard aſſays, by* Agathocles *the* Scicilian. *It is a memorable place for ſuch piety; therefore it ſhall be here recited.*

*The* Carthaginians *ſuppoſing that theſe loſſes and dyſaſters were ſent unto them of God, betooke themſelves to all manner ſupplication and devotion; and for ſo much as they ſuppoſed* Hercules *eſpecially to be angry with them, who was chiefly worſhipped at* Tyrus, *from whence originally they were extracted, they ſent exceeding great preſents and rich gifts thither. Being thence deſcended they were accuſtomed in former times to ſend unto* Tyre *the tenth for* Hercules, *of all their Revenues and encreaſe, any way renuing, iſſuing or growing; but becomming in proceſſe of time very wealthy, and having exceeding great commings in, they ſent very ſeldome their Tithe, and that but ſmall and refuſe, unto* Tyre, *in neglect and diſregard of the Deity. But upon this great loſſe, comming home to themſelves, and repenting of their irreligion, they became mindfull of the Gods, all that were worſhipped at* Tyre, *and ſent unto them the tenth.*

*Altogether as we uſe to ſerve God.* Phryx plagis. *Iſrael when God ſmote them, then they repented, returned, and honoured him: but when he turned his hand, they turned their hearts. So the* Carthaginians *being plagued firſt, returned unto their former cuſtome, (an ancient cuſtome beyond the memory of man, and yearly, not ſometime) and gave willingly in abundance their tenth part of all their commings in: not ſo much but of their children they gave the tenth, for they uſed to ſacrifice them unto* Saturn, *as* Iſrael *did in the Valley of* Hinnom. *Old Father* Ennius *remembreth this cuſtome,* Pœni ſos ſolitei ſont ſacrificare puellos: *which cuſtome ſeeing it remained unto* Tiberius

rius Cæſars *time, it is not likely they diſuſed the other tenths.*

*In like manner* Gelo *the* Sicilian *having vanquiſhed the* Carthaginians *in a moſt memorable battell, and ſlaine of them in the field an hundred and fifty thouſand men, the greateſt blow for maſſacre of men, that they at any time received in any battel:* Gelo *having atchieved this, he reſerved ſeverall and apart the beſt and principall of the ſpoils (which cannot well be denied to be a tenth) meaning to adorn and honour the Temple at* Syracuſe: *of the remains he reſerved another portion* (without all doubt in quantity another tenth) *which he dedicated in the principall Churches of* Himera; *the reſidue, after God had been ſerved, he parted among his ſoldiers and confederates.*

*Thus it appeareth what the cuſtome of Tithing was among the Heathens, which doubtleſſe they learned as many other things, from the people of God; as the ancient Fathers have obſerved touching many paſſages of practice in holy writ: there eſpecially, when they intreat,* de Græcorum furtis. *So the names of Deities, and other particular uſages, they received from the* Hebrews, *(though with much difference and variety, both as comming farre, and not well apprehended, or underſtood in the carriage and delivery) ſo alſo it is very probable, that of them the* Syrians, Phœnicians, *and* Egyptians, *firſt learned to give the tenth unto God, and other holy uſages, and then more remote Nations afterward: which might well admit in paſſing up and down, and in long continuance, much variety, and not fully in every point anſwer the prototype, or originall.*

*But from whence ſoever they receivedtheir firſt direction, for cuſtome and practice they moſt part went beyond*

*Gods*

*Gods own people: which though it be ſtrange, yet ſo it is, that in zeal unto piety and the ſervice of God, not onely* Samaria *hath exceeded* Jeruſalem, *but even* Babylon *put down* Sion. *And ſo* Theodoret *complaineth, that the heathens did give their tenths and firſt-fruits, to be employed in their idolatrous ſervice, to the maintenance of their Temples, Oratories, Prieſts, and Altars, in more liberall manner then Chriſtians: but ſaith he,* ταύτης δὲ τ τιμῆς οἱ τῦ θεῦ τῦ ζῶντος, ὐκ ἀπολαύουσιν, ἱερεῖς. Such honour (*ſaith he, ſpeaking of the care taken for the* Egyptian *Prieſts,* Gen. 47.) the Prieſts of the living God, and Miniſters of our Redeemer Chriſt Jeſus have not with us. *And much leſſe have they in theſe days, eſpecially with us, who boaſt to have reformed things amiſſe. For yet, amongſt thoſe of the Church of* Rome, *it is otherwiſe, that think nothing too dear for their Jeſuites; and have their Prieſts in ſo great reſpect, that they fall down on their knees and deſire their bleſſing every morning: but,*

Nuper Tarpeio quæ ſedit culmine cornix,
Eſt bene, non potuit dicere, dixit, erit.

*Mr* Selden *ſaith, that the Turks pay the tenth according to the* Moſaicall *Law, which they receive as authentique, but keep it according to* Mahomets *fancy, and the doctrine of his* Canoniſts.

*Mr* Blunt *an accurate obſerver in his travails affirmeth, that the Turks in their principall Cities have very ſtately* Moskeetoes (i. *Churches*) *of magnificent building, accommodated with goodly Colledges for the Prieſts lodgings, and Bathes, equall to the Monaſteries of any City in Chriſtendome.*

Ælian *relateth* (*as Mr* Selden *citeth him*) *that ſome kinde of beaſts in* Africa, *alwayes divided their ſpoile into eleven parts, but would eat onely the tenne, leaving*

*the*

*the eleventh as a kinde of firſt-fruits or Tithe: and why may not beaſts of the field teach men the practice of piety? ſeeing man that is without underſtanding is compared to them.*

*Thus Jews, Pagans, Turks, and ſome beaſts have had a care to pay Tithes, but many Chriſtians in theſe times come farre ſhort in their duties, and may bee upbraided with theſe examples: Which are here more largely inſiſted on, to ſhew the impiety of many men in theſe laſt days, who are more inexcuſable, then ever any people were, becauſe we have the rules and practice of all ages ſet before us for our direction; as before the Law of* Moſes, *in* Abraham *and* Jacob: *and likewiſe under the Law, during the Prieſthood of* Aaron: *and ſince under the Goſpel abundant light to guide us: beſides all the Records, Hiſtories, and Monuments of Gods judgements in former times to inſtruct us. All which (ſaith the Apoſtle,* 1 Cor. 10.) *are written and recorded* for our admonition, upon whom the ends of the world are come. *If we therefore offend now, we are greater ſinners then any former people, as ſinning againſt conſcience, knowledge, and examples of all ages; and like to the ſervant, that knew his Maſters will, but did it not, who therefore muſt be beaten with many ſtripes.*

CAP.

## CAP. XXVII.

### *That they are due by the Law of the Land.*

AS they are due by the law of Nature, and of Nations, by the Law of God, and of the Church: ſo are they likewiſe due by the very Temporall Laws of the Land, as well ancient as later; therefore *Edward* the elder, and *Guthrun*, *Saxon* and *Daniſh* Kings, puniſhed the not payment of Tithes by their temporall Conſtitutions. *Lambard.* ἀρχαῖον, *pag.* 54. *Tom.* 1. *Concil. Britan. pag.* 392.

King *Athelſtan* about the year of our Lord 924. not onely decreed them to be paid, by himſelf, his Biſhops, Aldermen, and Officers, but maintaineth that his Law by the example of *Jacob*, ſaying, *Decimas meas, & hoſtiam pacificam offeram tibi*; and by other effectuall Authorities: providing preciſely, that his owne Tithes ſhould diligently be paid, and appointing a time certain for doing thereof, *viz.* the feaſt of the decollation of S. *John Baptiſt.* ἀρχαῖον, *pa.* 57. *Tom.* 1. *Concil. p.* 402.

King *Edmund* about the year 940. in a ſolemn Parliament, as well of the Laity, as Spiritualty, ordained that every man upon pain of his chriſtendome, and being accurſed, ſhould pay them truly. ἀρχαῖον, *pag.* 73. *Tom.* 1. *Concil. pag.* 420.

King *Edgar* in a great Parliament about the yeare 959. confirmed the payment of Tithes, aſſigning certain times when every thing ſhould be paid, *viz.* the Tithe of all young things before *Whitſontide*, of the fruits of the earth by the harveſt *æquinoctiall*, (*i.* about the 12. *Septemb.*) and of ſeed by *Martimas*; and this to be done under the pain mentioned in the Book of the

Lawes of the Land: whereby it appeareth that the Laws of the Land had anciently provided for the payment hereof (though the Book remaineth not to us at this day) as well as the Laws of the Church. And he further enacted, that the Sheriffe as well as the Biſhop and Prieſt, ſhould compell every man to pay their Tithes, and ſhould ſet it forth, and deliver it, if they would not, leaving to the party offending onely the 9th part: and that the other eight parts ſhould be divided, four to the Lord, and four to the Biſhop; and that no man ſhould herein be ſpared, were hee the Kings Officer, or any Gentleman whatſoever. ἀρχαῖν, *pag.* 77.

*Tom.* 1. *Concil. pa.* 444.

King *Canutus*, about the yeare 1016. made the like Law, with ſome little enlargement, as appeareth in his Laws, *ca.* 8. and as *Malmeſbury* teſtifieth, ſtrictly obſerved all the Laws of the ancient Kings, *de geſtis Regum Angl. lib.* 2. *p.* 55. And he wrote alſo about the 15. year of his reign from beyond the ſeas a long letter to all the Biſhops and Nobility of *England*, conjuring them by the faith, that they ought both to himſelf, and to God, that they cauſed theſe Lawes touching Tithes and Rights of the Church to be duly executed, and the Tithes to be paid as aboveſaid. *Malmsb. p.* 74.

*Tom. Con. pag.* 544.

But King *Edward* the Confeſſor, about the year 1042, made all certain; namely, that Tithe was due unto God, and ſhould be paid, the tenth ſheafe, the tenth foal, the tenth calf, the tenth cheeſe; where cheeſe was made, or the tenth days milk, where there was no cheeſe made; the tenth lamb, the tenth fleece, the tenth part of butter, the tenth pigge; and that they that had but a calfe or two, ſhould pay for every of them a penny.

And

And to this price is the Parſon generally holden at this day, when ten of our pennies are ſcarcely worth one of that time. He alſo ordained, that Tithe ſhould be paid of bees, woods, meadows, waters, mils, parks, warrens, fiſhings, coppiſes, orchards and negotiations: and out of all things, ſaith the Law, that the Lord giveth, the tenth is to be rendred unto him that giveth the nine parts with the tenth: and bindeth the Sheriffe, as well as the Biſhop, to ſee this executed. And all theſe were granted, ſaith the Book, by the King, Barons, and Commonalty, as appeareth in thoſe his Laws, *cap.* 8. and *Hoveden Annal. part. poſter. pag.* 602.

For the Sheriffe and Biſhops were in thoſe days, the Kings Juſtices in every County, and all matters were heard and decided before them.

Note.

*Long after the learned Author had written this, he publiſhed the firſt Tome of our Engliſh Councels, wherein not onely theſe Laws mentioned, are recited, but alſo many other Laws and Conſtitutions concerning Tithes, by other Kings and Parliaments of that age. It would have been an eaſie matter to have inſerted them at large here, being there ſet down in order of time ſucceſſively; but becauſe I am unwilling to add any thing, or alter in the text of his diſcourſe; and that the Tome of the Councels is obvious to every mans peruſall, I will onely adde ſome brief references to them, as alſo to M.* Selden, *in the eight chap. of his Hiſtory, who hath recited them all, and ſome more then are here mentioned. From both (theſe learned Lawyers) the ſtudious Reader may be abundantly ſatisfied, eſpecially when the ſecond Tome of the Synods ſhall be extant, there will be full teſtimony of our own Laws, to confirm this truth, for* 500. *years after the Conqueſt, as theſe are for* 500. *years before it.*

*When* Gregory *the great ſent* Auguſtine, (*about the year* 600. Chr.) *aſſiſted with* 40. *Preachers, to publiſh the Goſpel to our forefathers in* England, *it is teſtified by the*

*Laws of* Edward *the Confeſſor among other things, that he preached and commanded Tithes to be paid.* —— Hæc beatus Auguſtinus prædicavit & docuit, & hæc conceſſa ſunt à Rege, Baronibus, & populo, ſed poſtea inſtinctu diaboli multi eam detinuerunt, &c. *and all this was confirmed by the King, and his Barons, and the people.*

Tom. 1. Concil. Brit. pag. 619. § 8, 9.

Egbert *Archbiſhop of* York, *brother to* Eadbert *King of* Northumberland, *publiſhed Canons about the yeare* 750. (*which did binde all the Northern parts, and* Scotland *in thoſe days*) *wherein he directeth all Miniſters to inſtruct their people, when, and how to pay their Tithes.*

Tom. 1. Con. pa. 258. Can. 5, &c.

*About the year* 786. *in the time of* Offa, *a great King of* Mercia, *and* Helfwood, *King of* Northumberland, *and the two Archbiſhops, there was a great Councell held by two Legates from* Hadrian *the firſt, wherein Tithes were eſtabliſhed; and it was likewiſe confirmed in the South part by the King of Weſt-Saxony. And as M.* Selden *ſaith, it is a moſt obſervable Law, being made with great ſolemnity of both powers of both States.* Hiſtory cap. 8. pag. 201.

Tom. 1. Con. pag. 291. Can. 17.

*In the year* 855. *King* Ethelwolph *by the conſent of all his Baronage and Biſhops, granted the perpetuall right of Tithes to the Church, throughout his whole kingdome, and that free from all taxes and exactions uſed then in the State; and this ſtatute is very remarkable, and was confirmed by other Kings,* Brorredus, *and* Edmundus *of Eaſt-Angles.*

Tom. 1. Con. pag. 384.

*For the Northern Clergy, there was a Law made to puniſh the non-payment of Tithes.*

Tom. 1. Con. pag. 501.

*In*

*In a great Parliament at* Earham, *Anno* 1009. *by all the States aſſembled under King* Ethelred, *Tithes are commanded and confirmed.*

Tom. 1. Con. pag. 510, &c.

Maccabeus, *an ancient King of* Scotland, *confirmeth Tithes in his Laws.* Con. pag. 571. Anno 1050.

*In the Canons of* Ælfric, *Tithes are confirmed,* Anno 1052. Con. pag. 572.

*Theſe and many other Conſtitutions and Laws are particularly, and more fully recited in the firſt Tome of our Councels, and in* Mr Seldens *Hiſtory, cap.* 8. *from whence the Reader may pleaſe to take ſatisfaction, for the ſpace of ſome* 500. *years before the Conqueſt.*

*William* the Conquerour in the fourth year of his reign, when he took a view of all the ancient Laws of the Land, he firſt confirmed the liberties of the Church, becauſe that by it (ſaith *Hoveden*) the King and the kingdome have their ſolid foundation (*pag.* 601.) and herein amongſt other Laws of King *Edward*, theſe particularly touching Tithes; which *Hen.* 1. alſo did *Anno* 1100. as appeareth by *Mat. Par. pa.* 53.

The like did alſo *Hen.* 2. in the 26. year of his reign, as *Hoveden* witneſſeth, *pa.* 600.

And for a percloſe of all that went before, or ſhould follow after, King *Hen.* 3. in the ninth year of his reign, by that ſacred Charter made in the name of himſelf, and his heirs for ever, granted all this anew unto God. *We have granted* (ſaith he) *unto God, and by this our preſent Charter have confirmed for us, and for our heirs for evermore, that the Church of* England *ſhall be free, and ſhall have all her holy rights inviolable.* Magna

Charta cap. 1. And that this Charter might be immortall, and like the ſanctified things of the Temple, for ever inviolable, it was not onely fortified by the Kings Seal, (the ſacred Anchor of the kingdome) but by his ſolemn oath, and the oath of his ſonne, and the Nobility of the kingdome. Yea, the whole kingdome yeelded themſelves to ſtand accurſed, if they ſhould at any time after impeach this grant. And therefore in the 25 *Ed.* 1. a ſpeciall Statute was made for confirmation of this Charter, wherein amongſt other things it is ordained, that the Biſhops ſhall excommunicate the breakers thereof; and the very form of the ſentence is there preſcribed, according to which upon the 13. *Maii*, *Anno* 1304. *Ed.* 1. 31. *Boniface* the Archbiſhop of *Canterbury*, and five other Biſhops ſolemnly denounced this curſe in *Weſtminſter* Hall, the King himſelf with a great part of the Nobility being preſent. *Firſt, againſt all them that ſhould wittingly and maliciouſly deprive, or ſpoil Churches of their rights.*

*V. Raſtals Abridg. de ſtat. tit. confirmat. Sententia lata ſuper chartas.*

*Vid. Pupil. oculi. part. 5. cap. 22.*

*Secondly, againſt thoſe that by any art or deviſe infringed the liberties of the Church or Kingdome, granted by* Magna Charta *&* de Foreſta.

*Thirdly, againſt all thoſe that ſhould make new Statutes againſt the Articles of theſe Charters, or ſhould keep them being made, or bring in, or keep other cuſtomes; and againſt the writers of thoſe Statutes, Counſellors, and Executioners thereof, that ſhould preſume to give judgement according to them.*

And leſt this ſhould ſeem a paſſion of ſome particular men for the preſent time, rather then a perpetuall reſolution of the whole kingdome in the ſucceeding ages, the zeal and care thereof was continually propagated from poſterity to poſterity. So that in 42 *Ed.* 3. *cap.* 1. it

it was further enacted, that if any Statute were made contrary to *Magna Charta*, it ſhould be void. And 15. times is this Charter confirmed by Parliament in *Ed.* 3. time; eight times in *Rich.* 2. reign; and ſix times in *Hen.* 4. Yea, the frontiſpice of every Parliament almoſt is a confirmation of the rights and priviledges of the Church; as having learned of the very Heathen Poet, who had it from the law of Nature, ἐκ Διὸς ἀρχόμεθα, we begin ever with God. Neither was there any man found, that ever would, or durſt (with *Nero*) lay hands upon his Mother the Church; for he that ſmiteth his father or mother, ſhall die the death, *Exod.*20.15.

*Heu tot ſancitas per plurima ſecula leges*
*Hauſerit una dies! hora una! et perfidus error!*

My meaning is not to ſtrain theſe Laws to the maintenance of ſuch ſuperſtitious gifts as were made to the Church againſt the honour of God, but to thoſe onely that were for maintenance of his Word and Miniſtery, which if they were lawfully conferred (as no man I think doubteth but they were) then let us conſider how fearfull a thing it is to pull them from God, to rend them from the Church, to violate the dedications of our Fathers, the Oaths of our Anceſtors, the Decrees of ſo many Parliaments; and finally, to throw our ſelves into thoſe horrible curſes, that the whole body of the kingdome hath contracted with God (as *Nehemiah* and the *Jews* did, *Nehem.*10.) ſhould fall upon them if they tranſgreſſe herein. For as *Levi* paid Tithes in the loins of *Abraham*, *Heb.* 7. ſo the lawfull vow of the fathers deſcendeth upon their children. And as the poſterity of *Jonadab* the ſonne of *Rechab* were bleſſed in keeping it, (*Jer.*35.18.) ſo doubtleſſe have we juſt cauſe to fear the dint of this curſe in breaking this vow.

Say

Say then, that Tithes were not originally due unto God, and that there belonged no portion of our Lands unto his Miniſters, yet are we in the caſe of *Nehemiah* and the *Jews*, (*Nehem.* 10. 32.) *They made Statutes by themſelves to give every year the third part of a ſhekel for the ſervice of the houſe of God.* And our fathers made Laws amongſt themſelves to give a portion of their Land, and the tenth part of their ſubſtance, that is, theſe Parſonages for the ſervice of the houſe of God. If they were not due before, they are now due: *For when thou voweſt a vow unto the Lord thy God, thou ſhalt not be ſlack to be pay it, for the Lord thy God will ſurely require it of thee, and ſo it ſhould be ſin unto thee, Deut.* 23.20. Therefore S. *Peter* reaſoning the matter with *Ananias*, telleth him, *That whileſt his land remained in his hands, it appertained unto him; and when it was ſold, the money was his own, Act.* 5. 4. he might have choſen whether he would give them God or not: but when his heart had vowed, his hands were tied to perform them; he vowed all, and all was due: not by the *Levitical* law, which now was ended, but by the *Morall* law which laſteth for ever; for *Job* being an Heathen man, and not a *Jew*, ſaith alſo, *Thou ſhalt make thy prayer unto him, and he ſhall hear thee, and thou ſhalt render him thy vows*, Job 22.27.

Eccleſ. alſo 5.3,4.

If the King give a gift of his inheritance to his ſon, his ſon ſhall have it; if he give it to his ſervant, his ſervant ſhall have it, *Ezek.* 46.16. If the King then give a gift to his Father, (that is, to God Almighty) ſhall not God have it? or the ſervant to his Maſter and Maker, ſhall not he enjoy it? Who hath power to take that from God, which was given unto him according to his Word? can the Biſhops? can the Cler-

Clergy give this away? no, they are but *Vſufructuarii*, they have but the uſe of it; the thing it ſelf is Gods, for the words of the grant be, *Concedimus Deo*, we give it to God, not to the Biſhops. Therefore when *Valentinian* the Emperor required the Church of *Milan*, of that noble Biſhop S. *Ambroſe*, O ſaith he, *if any thing were required of me that were mine, as my land, my houſe, my gold, or my ſilver, whatſoever were mine, I would willingly offer it, but* (ſaith he) *I can take nothing from the Church, nor deliver that to others, which I my ſelf received but to keep, and not to deliver.*

*Orat. de baſilic. tradend. p. 2. 38.*

## Cap. XXVIII.

*Tithe is not meerly* Leviticall: *How it is, and how not; and wherein* Judiciall.

TIthe is not ſimply a *Leviticall* duty, but reſpectively; not the naturall childe of *Moſes* Law, but the adoptive: Conſider firſt the action, and then the end; the action, in payment of them; the end, in the employment or diſpoſing of them: The action of payment of them cannot be ſaid to be properly *Leviticall* for divers reaſons.

Firſt, it is much more ancient then the *Leviticall* Law, as is already declared, and cannot therefore bee ſaid to begin by it, or to be meerly *Leviticall.*

Secondly, the manner of eſtabliſhing of it in the *Leviticall* Law, ſeemeth rather to be an annexion of a thing formerly in uſe, then the creating or erecting of a new cuſtome; for in all the *Leviticall* Law, there is no originall commandement to pay Tithe, but in the place where firſt it is mentioned, *Lev.* 27.30. it is poſitively declared to be the Lords, without any com-

mandement precedent to yeeld it to him. Some happily will affirm the commandement in the 22. *Exod. that thou ſhalt not keep back thy Tithe*, doth belong to the *Leviticall* Law, though it were given before the *Levites* were aſcribed to the Tabernacle. Yet (if it were ſo) that is no fundamentall Law whereupon to ground the firſt erection of paying Tithe, but rather as a Law of revive, and confirmation, as of a thing formerly *in eſſe*: for detaining and keeping back doe apparently imply a former right, and therefore Tithe was ſtill the Lords, *ex antiquiore jure*, and not *ex novitio præcepto*, by a precedent right, and not by a new commandement.

Thirdly, it containeth no matter of ceremony; for if it did, then muſt it be a type and figure of ſome future thing, and by the paſſion of our Saviour Chriſt bee converted from a carnall rite into ſome ſpirituall obſervation, (for ſo ſaith *Ferome* of the legall ceremonies) but no ſuch thing appeareth in it, and therefore it cannot be ſaid to be a ceremony. The whole body of the Fathers doe confirm this, who in all their works doe confidently affirm the doctrine that S. *Paul* ſo much beateth upon, that all legall ceremonies be aboliſhed; and yet as many of them as ſpeak of Tithes, doe without all controverſie both conclude and teach that ſtill they ought to be paid, and therefore plainly not to be a ceremony.

Fourthly, the Tithing now uſed, is not after the manner of the *Leviticall* Law; for by the *Leviticall* Law nothing was tithed, but ſuch things as renued and encreaſed out of the profits of the earth; but our manner of tithing is after that of *Abrahams*, *who gave tithe of all*. And this is a thing well to be conſidered, Heb. 7. 2.

for

for therein as *Abraham* tithed to *Melchiſedek* not being of the Tribe of *Levi*: ſo our Tithing is now to Chriſt being of *Melchiſedeks* order, and not of the Tribe of *Levi*, but of that of *Juda*, whereunto the Tribe of *Levi* is alſo to pay their Tithe.

Fifthly and laſtly, the end whereunto Tithe was ordained is plainly *Morall*, and that in three main points: Piety, Juſtice, and Gratitude. 1. Piety, as for the worſhip of God. 2. Juſtice, as for the wages and remuneration of his Miniſters. 3. Gratitude, as *ſacrificium laudis*, an offering of thankfulneſſe for his benefits received. All which were apparent in the uſe of Tithes before they were aſſigned over to the *Levites*, both in the examples of *Abraham* and *Jacob*, and by the practice of all Nations. For God was to be worſhipped before, in, and after the Law, and though the Law had never been given; but his worſhip could not be without Miniſters, nor his Miniſters without maintenance; and therefore the maintenance of his Miniſters was the maintenance of his worſhip; and conſequently the tithes applied to the one extended to both. God himſelf doth ſo expound it, *Mal.* 3.8. where he tearmeth the not-payment of Tithes to bee his ſpoil: and wherein his ſpoil, but in his worſhip? and how in his worſhip, but by taking from him, the ſervice of his Miniſters, the Prieſts and *Levites*, who being deprived thereof could neither perform his holy rites in matter of charge, nor give their attendance for want of maintenance?

And to encourage them in the ſervice of God. 2 Chron. 31.4.

So that herein the children of *Iſrael* were not onely guilty of that great ſinne committed againſt piety, in hindering the worſhip of God; but of the crying ſin alſo committed againſt equity, in withholding the wa-

ges of the labourer, (his Miniſters) and conſequently of that monſtrous and foul ſin of Ingratitude, which *Jacob* in vowing of his Tithes ſo carefully avoided.

To come to the other point before ſpoken of, the diſpoſing or employment of the Tithes after they were paid, (that is, when they were out of the power of them that paid them, and at the ordering of the *Levites* that received them) it cannot be denied; but therein were many ceremonies, as namely, in the ſanctifying of them, in the eating them in the Tabernacle, the eating of them by the *Levites* onely and their family; and as they were otherwiſe applied to the ceremoniall habit of Gods ſervice for that time: but yet notwithſtanding, even then they ſtill ſerved in the main point to the *Morall* end of their originall Inſtitution; that is, the worſhip of God *in genere*; the maintenance of his Miniſters *in genere*; and for a token of thankfulneſſe *in genere*. Againſt which the particular applying them to the particular form of worſhip, and ceremonies of the *Leviticall* Law, (for that time aboliſhed) had no repugnancy. And therefore though that manner of diſpoſing them were *Ceremoniall*, and did vaniſh away with the ceremonies themſelves: yet did it nothing diminiſh the *Morall* uſe, and validity of the Inſtitution *in genere*; which notwithſtanding ſtill remained to be accepted and imitated by all poſterity; and yet to be altered and changed accidentally in the particular ordering and diſpoſing of them, as the preſent eſtate of Gods worſhip, and the neceſſity of the time ſhould require, *viz.* before the Law, at the pleaſure of them before the Law: under the Law, by the rules of the Law: and now in the time of the Goſpel, as the Church of God either hath, or ſhall appoint them:

keeping

keeping always (as I ſay) the *Morall* conſiderations of their Inſtitution, for they may not be diverted from the Miniſter, though the courſe of Gods ſervice be altered from that of the *Levites*, but both they and the *Levites* are labourers in the Lords Vineyard; and therefore what kind of work ſoever, either the one, or the other, be for the time there employed upon, the wages appointed (*Denarius in diem*, *Mat.* 20.2.) is due unto each of them.

Therefore to take away the *antitheſis*, or oppoſition that ſome make between the Miniſters of the Goſpel, and the *Levites* and Prieſts of the Law; God himſelf in the laſt of *Eſay*, *v.* 21. calleth the Miniſters of the Goſpel Prieſts and *Levites*, as though he had onely changed the courſe of their ſervice, and not the main, or end of their Inſtitution. *I will take of them* (*viz. of the* Gentiles) *for Prieſts and Levites*, that is, the generation of *Levi* ſhall no longer be appropriate to my ſervice, but I will communicate their function to the *Gentiles*, and out of them will I take Prieſts and *Levites* to perform the ſervice of my charge. Eſay 66. 20.

God therefore brought no new thing into the *Leviticall* Law, neither changed he the nature of the former Inſtitution thereof, nor the courſe of the payment, nor the quantity of the portion aſſigned, nor the end whereto it was; but looking generally into the equity of them all, and approving them all in the generall, (yea, though they were uſed by the Heathen) he deſcended into further particularities for order and government, whereof he preſcribed divers rules, and obſervances, ſome *Morall*, ſome *Judiciall*, and ſome *Ceremoniall*, according to the faſhion of his Church at that time; which like old garments being wholly

worn out with the old Law, the body whereupon they were put, remaineth ſtill in the firſt ſhape and vigour. And whereas before the Law it ſeemeth to be ſomewhat at randome and uncertain, God by his owne mouth in the Books of *Moſes*, hath eſtabliſhed, and confirmed. So that theſe things conſidered, it cannot be ſaid to be *Leviticall* in ſubſtance, but reſpectively onely, and by way of accident.

§ 1. *An Objection touching ſacrifice, and firſt-fruits, and circumciſion.*

It may be objected, that ſacrifice and firſt-fruits were alſo in uſe under the law of Nature, and from thence, (as Tithe was) tranſlated into the *Leviticall* Law: yet they ceaſed with the *Leviticall* Law, and why ſhould not Tithe ceaſe likewiſe?

Though ſacrifice and firſt-fruits were in uſe under the law of Nature, and from thence (as Tithe was) tranſlated unto the *Leviticall* Law, yet the mark they ſhot at, and the end whereto they were employed, being once accompliſhed, there was in reaſon no further uſe of them; for they were like the cloudy and fiery pillars, that directed the children of *Iſrael* to the land of promiſe, who being arrived there, needed thoſe helps no longer, and ſo they vaniſhed away, as then not neceſſary. But Tithe in it ſelf and before the Inſtitution of the *Leviticall* Law, was onely an act of juſtice and piety; and therefore though the *Leviticall* Law, employed it partly unto ceremonies, yet the nature thereof was not thereby changed, and therefore it ſtill lived, when the *Leviticall* Law died. Touching the whole frame of *Leviticall* ceremonies, it is like

like that of *Daniels* image: the body is decayed and gone, but the legs being partly iron, as well as clay, by which it was ſupported; though the clay, that is, the ceremony be aboliſhed, yet the iron, that is, the *Morall* Inſtitution thereof, endureth for ever.

The rites of the *Leviticall* Law were of two ſorts; ſome the naturall children thereof, others the adoptive. I call them naturall, that ſprang out of the bowels of it, as thoſe touching the Ark, and Inſtitution of the *Levites*. Adoptive, thoſe that being in uſe before were afterward annexed to it: And of theſe I obſerve two ſorts, one ariſing from ſome poſitive Conſtitutions, as that of Circumciſion; (whereof I will ſpeak anon) and the other deduced from the law of Nature, as thoſe concerning the worſhip of God: whereof ſome were generall and neceſſarily incident to every form of his worſhip in all ages; as Miniſters to perform his ſervice, which they called Prieſts, and means to maintain it, which they ordained to be by Tithes. The other appropriate to the naturall condition of thoſe times; as ſacrifice, and firſt-fruits, which though they roſe out of the law of Nature, as touching the common end of being offered by way of thankſgiving unto God; yet in that they were alſo types and figures, full of ceremony, they became temporall, and thereby tranſitory. For the children of *Adam* finding themſelves in the wrath of God, and their fleſh, bloud, body, and life, to be altogether corrupted and accurſed by the tranſgreſſion of their father; they ſought by all invention poſſible to help it as far as nature could; and therefore both to expreſſe the preſent eſtate of their miſerable condition, and the mark alſo they aimed at for redemption in time

to

to come, they held it as a neceſſary correſpondency, that fleſh ſhould be redeemed with fleſh, bloud with bloud, life with life, the guilty body with a guiltleſſe body, and to be ſhort, the treſpaſſe and corruption of man, by the innocency of ſome ſanctified creature offered unto God for remiſſion of ſin. And becauſe nothing under the ſun could be offered up, but it alſo was full of corruption, and that nothing could be acceptable unto God, that was impure, therefore though they choſe the cleaneſt and perfecteſt beaſts, and things for theſe offerings and ſacrifices, and purged and ſanctified them by all manner of means they could, yet they deviſed further to ſever the purer and aeriall part thereof from the groſſe and earthly; conſuming the one, that is to ſay, the fleſh and the bones (as the body of ſin and corruption) with the deſerved torment of fire, and ſending the other, that is, the fume and vapour, as the purer part to carry their prayers and invocations up into heaven, before the Throne of God. Firſt, how corruptible they were, that is, even like the great body of a bullock ſuddainly conſumed. Secondly, the puniſhment in juſtice due unto them, even the torment of fire. Thirdly, the place and perſon from whence they hoped for redemption: Heaven and Almighty God. And laſtly, the means whereby they were to attain it, taken from two of the proprieties of fire, light and heat: that is, firſt, the light of faith, whereby they long foreſaw the promiſed ſeed; and ſecondly, the heat of zeal and hearty prayer, breathed and ſent forth from the altar of a fervent heart, whereby they hoped to obtain remiſſion of their ſins.

After all this they yet conſidering further, that the corruption and wrath fallen upon them was perpetu-

all,

all, and that theſe oblations and ſacrifices were but temporall and momentary, they thought in reaſon (being onely under the law of Reaſon) that the one could not countervail the other, and that therefore it was neceſſary by continuall reiteration and multiplying of ſacrifices to ſollicite and importune God from day to day untill the time came, that a perpetuall ſacrifice might be offered up to make *finalem concordiam*, in the high Court of heaven, a full atonement betweene God and man: which being once accompliſhed by our Saviour Chriſt, both the inſtitution and the end of ſacrificing were wholly accompliſhed, and ſo no cauſe for ever after to uſe that ceremony any more. *For with one offering*, ſaith the Apoſtle to the *Hebrews*, *hath he conſecrated for ever them that are ſanctified*, Heb. 10.14.

Touching Circumciſion, though it were before the *Leviticall* Law, yet it riſe not out of the Law of Nature, or *Morall* Law, but was inſtituted by a poſitive conſtitution, made by God himſelf, and not as a part of his worſhip, but as a ſeal of his Covenant with *Abraham*, which by this ceremony of cutting away the impurer part of the fleſh, did put the children of *Iſrael* ever in mind to caſt away carnall affections, and to hope for the promiſed Meſſias, that ſhould cleanſe them from the impurity of ſin, and reſtore them again to the favour of God: which being performed by our Saviour, the Covenant was fulfilled, and the ſeal of Circumciſion preſently thereby defaced.

## § 2. *Of the Sabbath day: Easter and Pentecost.*

The Institution of the Sabbath day had in it much more *Levitical* ceremony, then the matter of tithing; for no man ought to kindle a fire on that day, nor dresse the meat he should eat, nor carry any burden, take a journey, or stir out of the place he was in. *Tarry every man in his place, let no man goe out of his place the seventh day, Exod.* 16.29. It was besides a day appointed for divers particular ceremonies, sacrifices, and offerings, as yee may read, *Num.* 28.9, 10. and amongst other significations, to be a memoriall of the great deliverance out of *Ægypt*, (a thing peculiar to the *Jews*.) Neither have we any commandement, but only a precedent for the keeping of it, from the Apostles. *Acts* 20.9. 1 *Cor.* 16. 2. *Rev.* 1.10. Yet durst never any man say, that the Sabbath was therefore to be abolished, but the temporall and ceremoniall parts thereof being taken away, the morall use of the commandement, which is, that the seventh part of our time must be dedicate to the generall service of God, remaineth for ever to the worlds end; for otherwise our Sabbath is so remote from the Sabbath commanded in the Decalogue, that the one holdeth almost no affinity with the other, as appeareth in the poinrs aforesaid; and for that their Sabbath was the last day of the week, ours is the first: theirs was in celebration of the end of his workes; ours in celebration of the beginning thereof; for in the first day were the Elements, the Angels, &c. made. *August. Tom.* 10. *fol.* 250. Theirs in memory of the Creation of the world, ours of the Redemption, that Christ rise from the dead the first

Exod. 35.3. 16.24. Jer. 17.11.

day

day of the week. And though the Apoſtles taught us by example to exchange the *Jewiſh* Sabbath for this of ours, as touching the publique meeting on the firſt day of the week, for ſetting forth the glory of God, yet they gave us no commandement to abſtain from work on that day; but the Church decreed, ſaith S. *Auguſtine*, that all the honour of the *Jewiſh* Sabbath ſhould be transferred to the Chriſtian; (*loco dicto*) and is done upon the *Morall* reaſon of the commandement, not the *Levitical*.

So likewiſe in tithing, cut off thoſe parts that were temporall, and ceremoniall, which as I have ſhewed were neither in the payment, nor in the receiving of them, but in the manner of ſanctifying and employment of part of them, after the *Levites* were poſſeſſed of them: and then that which remaineth, namely, the payment and receiving of them for maintenance of the ſervice of God remaineth for ever, as a part of the *Morall* Law, and common equity.

So touching *Eaſter*, Chriſt our Paſſeover was ſacrificed for us, 1 *Cor.* 5. 7. and thereby the end of Inſtitution accompliſhed: how come we then to continue it, eſpecially, having neither commandement, nor precedent thereof from the Apoſtles? The *Ceremoniall* part of the Paſchall feaſt, *viz.* the *Levitical* Lamb, the Purification precedent, &c. are aboliſhed with the Law, yet in that Chriſt came in the room of that *Levitical* Lamb, and was ſacrificed at the ſame time, and gave his body to be broken and eaten by all, as the Paſchall Lamb was for a ſatisfaction for our ſins, as S. *John Baptiſt* ſaith, *Ecce Agnus Dei*--therefore is that Feaſt continued, as it was formerly uſed, without changing either the number of the days, or ſeaſon of the year,

or the ſolemn eſtimation that was anciently had thereof: yet note that *Eaſter* is kept according to the *Leviticall* manner for the time, after the full Moon, and is therefore moveable; whereas the day that Chriſt ſuffered is otherwiſe fixed, as that of the Nativity.

So likewiſe *Pentecoſt*, being the 50. day from the firſt Paſſeover, eaten by the children of *Iſrael*, and the day alſo whereon the Law was given in Mount *Sinai*, and therefore hallowed as one of the three greateſt feaſts; the Law then being ended, the celebration of the birth-day thereof, muſt in all reaſon alſo be ended; yet becauſe the fulneſſe of grace, (that holdeth always an *Antitheſis* with the Law) that is, the holy Ghoſt in ſhape of cloven tongues was at the end of 50. days after Chriſts firſt Paſſeover ſent down upon the Apoſtles; therefore is that Feaſt alſo continued, at the ſame time and number of days, that the *Jews* uſed it: although in all the New Teſtament we have neither commandement, nor example for keeping either of theſe Feaſts; for though it be ſaid, *Acts* 2. 1. *that when* Pentecoſt *was come, the Apoſtles were all together in one place*, yet was not that their meeting to celebrate the *Judaical* Feaſt: but becauſe the people from all parts then flocked to *Jeruſalem*, the Apoſtles were there alſo, for the better publiſhing of the Goſpel, and for the ſame reaſon was the holy Ghoſt alſo in this miraculous manner ſent at this time, that by this means the fame thereof might be carried throughout all the world. For it cannot be intended, that the Apoſtles met to celebrate the Chriſtians feaſt, inſomuch as at the beginning of this their meeting the holy Ghoſt was not ſent upon them. Yet all this while, nor in the Apoſtles time, as far as the New Teſtament diſcove-

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reth, was *Easter* used, nor the Feast of *Pentecost*; for though it be said, that when the Feast of *Pentecost* was come, they were all with one accord in one place, *Act.* 2. 1. that is, at the time when the cloven tongues fell upon them, this like the Sabbath was the *Jews Pentecost*, not the Christians; for it answered to the *Easter* that the *Jews* had then last holden, not to that our Saviour kept, being the day before the *Jews*. So that neither of these Feasts seem to be begun in the Apostles time, but rather by their next successors; yet Saint *Paul*, 1 *Cor.* 16. 8. saith, *I will tarry at* Ephesus *till* Pentecost, *for a great door and effectuall is opened unto me, and there are many adversaries*: as though he desired at that great Feast, to take the opportunity to publish the Gospel, and confute his adversaries.

*Nemo non sanctificatus faciat Phase. Nu. 9. 6. hac cæremonia sublata, manet festum.*

## CAP. XXIX.

### *How Appropriations began.*

MAny things are notoriously wicked in conclusion, whose beginnings are not suspected: so hath it happened in Appropriations. The Livings that belong to them, were first given for the maintenance of the Church & her family, that is, Ministers and poor people. In the Primitive Church the Bishops disposed them accordingly, but the burden growing in time too great for them, the Parsons were themselves trusted to doe it every one in his own Parish. Then divers religious men, as Abbots, Priors, single Deans and Prebends, that had advowsons to them and their successors, perceiving this, began first to collate themselves to those Churches, and for lucres sake were contented in their own persons to doe the divine fervice thereof; and find-

ing ſweetneſſe in it, as enjoying thereby the whole fruits of the Benefice. Every ſucceſſor did the like, and by that means kept the Living perpetually in their owne hands, without any favour, or thanks of, or to the Ordinary; at length to avoid the multiplicity of Inſtitutions and Inductions, they eaſily obtained licence of the King and Ordinary (ſometimes of the Pope himſelf) that without theſe uſuall ceremonies, they and their ſucceſſors might be perpetuall Incumbents, and take the profits of thoſe their Benefices. In old time whileſt theſe Churches were in the Clergy-hand, they were called Appropriations, becauſe they were appropriate to a particular ſucceſſion of Church-men; now they are called Impropriations, for they are improperly in the hands of Lay-men.

But thus Churches became firſt appropriate, yet onely unto ſuch as were meerly ſpirituall, and might in their own perſon miniſter the ſacraments and divine ſervice. But ſhortly after Deans and Chapters obtained like licenſes to them and their ſucceſſors, who being a Body corporate, conſiſting of a multitude, could not jointly perform this function, and in particular none of them was tied unto it. Then was it deviſed, that by their common ſeal (which is the tongue of their Corporation) they might appoint a Deputy or Vicar to doe it for them; which invention gave the wound unto the Church, whereof ſhe bleedeth at this day.

By theſe examples, Abbots, Priors, ſingle Deans and Prebends, that before ſerved God in their own perſons, learned alſo to doe it now by Vicars and Subſtitutes, and ſo like faithleſſe ſhepheards left their flocks to careleſſe pages, themſelves minding nothing but the benefit of the Livings. And this device being once a foot,

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the very Nuns and Prioreſſes (that could by no means adminiſter theſe holy rites) laid hold thereof, and being religious perſons obtained alſo the ſame Licences: all of them pretending that with great fidelity they would ſee that performed effectually to the Church and poor, that thoſe Livings were at firſt ordained unto, Divine ſervice, and Hoſpitality. By this window crept the Vicars into Churches, who for the moſt part were ſome of the Monaſtery, whereunto the appropriation belonged; till the ſtatute of 4 *H.* 4. *cap.* 12. provided, *That in every Church ſo appropriate, a ſecular perſon be ordained Vicar perpetuall, Canonically inſtitute and induct in the ſame, and convenably indowed by the diſcretion of the Ordinary,* (1) *to doe divine ſervice,* (2) *and to inform the people,* (3) *and to keep hoſpitality there* —— *and that no Religious be in any wiſe made Vicars, in any Church ſo appropriate, &c.*

Thus came Vicars to get a lock out of the Parſons fleece, which though it were a very poor one, yet was it in ſome ſort proportionable to the deſerts and quality of ſuch heardmen, inſomuch as then they were ſingle men, as well as ſimple Clerks; but yet notwithſtanding they were thus indued before this Statute, for in the Synod holden at for the Province of *Canterbury*, *Anno* 1222. *o*4. 18. it was ordained, that leſſe ſhould not be aſſigned to a perpetuall Vicar then five marks a year in rent, which in the proportion that the rents of that time hold to this, cannot be leſſe then 30 l. or 40 l. a year.

So that the Appropriation of a Parſonage was no more at the firſt, but a grant made by the Pope, &c. to an Abbot, Prior, Prebend, or ſome other ſpirituall perſon, being a Body politique and ſucceſſive, that he and

and his ſucceſſors might for ever be Parſons of that Church, that is, that as one of them died, his ſucceſſors might enter into the Rectory, and take the fruits and profits thereof, without further trouble of admiſ-
Plowd. 500. ſion, inſtitution, or induction; which upon the matter, was no more but to doe that briefly at one cut, that otherwiſe might and would in length of time be done at ſeverall times, as to admit, inſtitute, and induct the whole ſucceſſion of a religious body politique at once, whereas otherwiſe every ſucceſſour muſt have had a particular inſtitution and induction; and therefore every ſuch ſucceſſour during his time, was as perfect an Incumbent, as if he had been particularly inſtituted and inducted: but when the ſucceſſion failed, then it was again preſentative as upon the death of an ordinary Incumbent: and by extinction of the Houſe, diſſolution, ceſſion, or ſurrender of the Houſe and Order, the appropriation is determined, and they
Dier Plowd. 497. Manwood 501 are now again preſentative: for the appropriation is but as a ſtop in a run, which being taken away, the former right renueth.

What alteration then did the Statute make of them? did it make them lay, or temporall Livings? no, the words of the Statute are, *That the King ſhall have them in as large and ample manner, as the Governors of thoſe houſes had them, &c.* So that though the Statute changed the owner of the thing, yet it changed not the nature of the thing. The Monaſticall perſons had them before as ſpirituall Livings, and now the King muſt have them in as large manner, but ſtill as ſpirituall Livings: and with much more reaſon might the King ſo have them, then any other temporall men; for as the Kingdome and Prieſthood were united in

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the perſon of our Saviour Chriſt, ſo the perſon of a King is not excluded from the function of a Prieſt, though as Chriſt being a Prieſt, medled not with the kingdome, ſo they as Kings, medle not with the Prieſthood. Yet by the Laws of the Land the King is compoſed as well of a ſpirituall body politique as of a temporall, and by this his ſpirituall body he is ſaid to be ſupream Ordinary, that is, chief Biſhop over all the Biſhops in *England*, and in that his Eccleſiaſticall or Spirituall authority, doth many things, which otherwiſe in his temporall he could not doe; and therefore the Statute of 25 *H.*8. *cap.* doth agniſe the words, *authoritate noſtra regia Suprema & Eccleſiaſtica qua fungimur*, which the King uſeth in divers Charters touching ſpirituall cauſes, doe teſtifie, that he taketh upon him the execution thereof: and therefore in this reſpect he may much better hold them then his lay ſubjects. Neither is this authority of the King founded upon the Statute of *H.* 8. or any other puiſne inſtitution, but deduced anciently from the very Saxon Kings, as appeareth by many of their Laws, and Charters, wherein as ſupream Ordinary they diſpoſe of the rights, and juriſdiction of the Church, delivering unto religious perſons, greater or leſſer portion thereof, according to their own pleaſure, and abridging and exempting other from the authority of the Biſhops, and Archbiſhops, or any other Eccleſiaſticall Prelate. And in this reſpect it ſeemeth that the Chappell of the Kings houſe was in ancient time under no other Ordinary, then the King himſelf; for *William* the Conquerour granting all exemption to *Battail Abbey*, granteth that it ſhall be as free from the command of any Biſhops, as his own Chappell.

In this part of his power *W.* 1. made Appropriations of Parſonages, which otherwiſe he could not doe. *Coke p.5. f.* 10.

*Dominica Capella*, which as it thereby ſeemeth was under no other Biſhop then the King himſelf.

*Obiect.* *But the Biſhops agreed to the granting away of theſe Church Livings.*

It is true, that the Law accounteth the judgement of the major part, to be the judgement of all: but the Biſhops cannot be ſaid to have agreed unto it, as being willing with it, but as concluded by legall neceſſity and inference. For though all the Biſhops ſaid nay, yet the Lay Barons by reaſon of their number exceeding the Biſhops were not able to hinder it: and no man doubteth, that in publique ſuffrages, very many times, *major pars vincit meliorem*; therefore I neither accuſe, nor condemn the reverend Biſhops herein: for their voices, though they had given them every one againſt the Bill, were not able to hinder it. Neither doe I think but that they being men of another profeſſion, unexerciſed in the elenchs of the Law, were overtaken in the frame of words, and thereby paſſed that away in a cloud, which if they had perceived could never have been won from them with iron hooks. But in this matter, there being a queſtion of Religion; Whether Tithes be due *jure divino*, or whether they could be ſeparated from the Church; it was not properly a queſtion decidable by the Parliament, being compoſed wholly of Lay perſons, except ſome twenty Biſhops, but the queſtion ſhould firſt have been moved amongſt the Biſhops by themſelves, and the Clergy in the Convocation houſe, and then being there agreed of according to the Word of God, brought into the Parliament. For as the Temporall Lords exclude the Biſhops when it commeth to the deciſion of a matter of bloud, life and member: ſo by the like reaſon, the

Biſhops

Biſhops ought to exclude the Temporall Lords, when it commeth to the deciſion of a queſtion in Theology; for God hath committed the Tabernacle to *Levi*, as well as the kingdome to *Juda*: and though *Juda* have power over *Levi*, as touching the outward government, even of the Temple it ſelf; yet *Juda* medled not with the Oracle, & the holy Miniſtery, but received the will of God from the mouth of the Prieſt. Therefore when *Valentinian* the Emperour required *Ambroſe* to come and diſpute a point of *Arianiſme* at his Court, he beſought the Emperour, that he might doe it in the Conſiſtory amongſt the Biſhops, and that the Emperour would bee pleaſed not to be preſent among them, leſt his preſence ſhould captivate their judgements, or intangle their liberty.

*That after the Appropriation, the Parſonage ſtill continueth ſpirituall.* § 1.

It appeareth by that which is afore ſhewed, and the circumſtances thereof, that the Appropriating of a Parſonage, or the endowing of a Vicarage out of it, doe not cut the Parſonage from the Church, or make it temporall, but leaveth it ſtill ſpirituall, as well in the eye of the Common Law, as of the Canon Law; for if it became temporall by the Appropriation, then were it within the Statute of *Mortmain*, and forfaited by that very Act. But it is agreed by the 21 *Ed.* 3. *f.* 5. and in *Plowd. Com. fo.* 499. that it is not *Mortmain*, and therefore doth continue ſpirituall; for which cauſe alſo the Ordinary, and Eccleſiaſticall Officers muſt have ſtill the ſame authority over ſuch appropriate Churches, as they had before thoſe Churches were appropriate.

Therefore in the year 1252. *Robert* Biſhop of *Lincoln* by commiſſion from *Innocent* 4. not onely enlarged the endowments that before were made, to divers Vicarages, (as he thought good) but endowed others out of thoſe Appropriations that had no Vicarages endowed to the great diſcontentment of all the Approprietaries of that time, as appeareth by *Matth. Pariſ.* And therefore alſo the Statute of 15 *R.* 2. *cap.* 6. and that of 4 *H.* 4. *cap.* 12. that ordained, that in Licences of Appropriation in the Chancery it ſhould be contained, *That the Biſhop of the Dioceſſe in every Church ſo appropriated, ſhould provide by his diſcretion that the Vicar were convenably endowed, Divine ſervice performed, and a convenient portion of the fruits thereof yearly diſtributed to the poor of the Pariſh*, did but agniſe and affirm the ſpirituall end whereto theſe Parſonages were appointed, and the authority the Church had ſtill over them, notwithſtanding ſuch Appropriation, commanding the Biſhops to ſee it executed. Neither doe I yet finde, where this power is taken from the Biſhops, for the Statute that giveth theſe appropriate Churches to the King, ſaith not, that the King ſhall have them as temporall lands, or diſcharged of the Biſhops juriſdiction, but that he ſhall have them as the religious perſons had them, that is, as ſpirituall Livings, and conſequently ſubject to the juriſdiction of the Biſhops before had over them; and then are they no otherwiſe in the hands of the Laity; for teſtimony whereof they alſo carry at this day the badges and livery of their Lords and Maſters of the Clergy; for as *Joſeph* was taxed in his own City, ſo are they yet ranked amongſt other ſpirituall Livings, and as members of that body doe ſtill pay their Synodals and Proxies

to

to the Biſhops and Archdeacons: and if Tithes bee withholden from the Approprietary, he ſtill ſueth for them (as ſpirituall things) in the Spirituall Court. All which are (by Gods Providence) left upon them as marks of the Tribe they belong unto, that when the Jubile commeth (if ever it pleaſe God to ſend it) they may thereby be diſtinguiſhed, and brought back again to their own Tribe.

*That no man properly is capable of an Appropriation but ſpirituall men.* § 2.

Spirituall things and ſpirituall men are correlatives, and cannot in reaſon be divorced: therefore was no man capable of Appropriations but ſpirituall perſons before the laws of diſſolution, which firſt violated this holy marriage, and (like *Abimelech*, *Gen.* 20. 2.) took the wife from the husband, and made Lay men which before were the children of the Church now become ſpirituall Fathers. The act of Appropriation is nothing but to make a body corporate or politique ſpirituall, that hath ſucceſſion, perpetuall Incumbents in a Rectory; or no more, upon the matter, then to entail the incumbency to one certain ſucceſſion of ſpirituall men. Therefore as a Patron (ſaith my Lord *Dyer*, Chief Juſtice, and *Plowden* 496.) muſt preſent a ſpirituall perſon to a Church, and not a temporall: ſo by the ſame reaſon, an Appropriation muſt be made unto a ſpirituall perſon, and not temporall; for ſaith he, the one hath cure of ſouls, as well as the other: and they differ in nothing but in this, the one is Parſon for his life, and the other and his ſucceſſours, Parſons ſhall be for ever: and for this in the beginning (ſaith he) were

the Appropriations made to Abbots, Priors, Deans, Prebends and ſuch like, as might (in their own perſon) miniſter the Sacraments, and Sacramentals, and to none other. And for the ſame reaſon at the firſt it was holden, that they could not grant their eſtates to any other, no more then the Incumbent of a Parſonage preſentative, who though he may leaſe his Glebe, and Tithes, yet can he not grant his Incumbency to any other, but muſt reſign it; and then the Patron and Biſhop muſt make the new Incumbent. And ſo the Incumbency which is a ſpirituall office cannot be granted, nor by the ſame reaſon could the perpetuall Incumbent (which is the Approprietary) at the firſt grant his eſtate which contained the Incumbency, and the Rectory, which is the revenue of the Incumbent.

Therefore when the Order of the Templars (to whom divers appropriate Parſonages were belonging) was diſſolved, and their poſſeſſions granted to the Prior of S. *Johns* of *Jeruſalem* in *England*; Juſtice *Herle* in 3 *Ed.* 3. ſaid, that if the Templars had granted their eſtate in the Appropriations to the Hoſpitalers, that is, to them of S. *Johns* of *Jeruſalem*, the Hoſpitalers ſhould not have it; for it was granted onely to the Templars, and they could not make an Appropriation thereof over unto others. Therefore to make good the eſtate of the Prior and Hoſpitalers, it was ſhewed there that by the grant of the Pope, King, and Parliament, the Prior had the eſtate of the Templars: And ſo by *Herle*, an Appropriation cannot be transferred to another; and with good reaſon, (ſaith the book) for it hath in it a perpetuall Incumbency, which is a ſpirituall function appropriate to a certain perſon ſpirituall, and cannot be removed from them in whom it was firſt ſetled by any act of theirs. *Herle*

*Herle* there alſo ſaid that, That which was appropriate unto the Templars, was diſappropriate by the diſſolution of their Order, *fo.* 497. *B.* So that as death is the diſſolution of every ordinary Incumbent, ſo the diſſolution of a religious Order, Monaſtery, or Corporation, is the death thereof, and by that death (according to this opinion of Juſtice *Herle*) the Church appropriate that belonged thereunto is again become preſentable as it was before the Appropriation; whereunto my Lord *Dyer* and *Manwood* doe alſo agree; and therefore by the diſſolution of religious houſes, all Appropriations had been preſentable like other Churches, if the Statute of diſſolution had not given them to the King; and by as good reaſon, might the ſame Law-makers have given him the other alſo, for any thing that I perceive to the contrary. Yet let us ſee in what manner they are given unto the King, for though I cannot examine the matter according unto the rules of Law, being not ſo happy (which I lament) as to attain that profeſſion; yet under correction, I will be ſo bold as to offer ſome points thereof to further conſideration; as, firſt, what is granted to the King; ſecondly, the manner how it is granted; thirdly, the ends why: And herein I humbly beſeech my Maſters of the Law to cenſure me favourably: for I take it by proteſtation, that I doe it not as, *aſſerendo docere, ſed diſſerendo quærere legitima illa vera*, that *Littleton* ſpeaketh of.

Dier Plowd. 497. Manwood, *ib.* 501. *l.* 2.

## *What was granted to the King.* § 3.

1. The Statute ſaith, That the King ſhall have all ſuch Monaſteries, Priories, and other ſuch religious Houſes

Houſes of Monks, &c. as were not above 200l a year. And the Sites, and Circuits thereof, and all Manours, Granges, Meaſes, Lands, &c. Tithes, Penſions, Churches, Chappels, Advowſons, Patronages, Annuities, Rights, Conditions, and other Hereditaments appertaining or belonging to every ſuch Monaſtery-- 2. In as *large and ample manner*, as the Governours of thoſe, and ſuch other religious Houſes have, or ought to have the ſame in *the right of their Houſes*. 3. To have and to hold, &c. to his Majeſty, his Heirs, and Aſſigns, to doe and uſe therewith, his and their own wils, *to the pleaſure of God*, and to the *honour and profit of this Realm*.

The words have divers ſignifications, and therefore make the ſenſe the more obſcure.

Monaſteries, Priories, and religious Houſes are,

1. Sometimes taken perſonally, for the Heads and Members of the Houſe, that is, for the men of the Houſe, as Church for the Congregation, City for Citizens.

2. Sometime they are taken locally, for the ſoil of the Houſe, and in this ſenſe one while extenſively, to all the Territory thereof: another while reſtrictively, to the ſite and building onely.

3. They are taken civilly, or locally, for the whole rights of the Houſe, the lands, the rents, the poſſeſſions, and inheritances whatſoever. In which of theſe ſenſes the Parliament hath given them to the King, and whether in all of them or not, it is not manifeſt; but I conceive the words muſt be taken in the laſt ſenſe, which as the more generall, includeth alſo the ſecond; and if the very carkaſſes of the Monaſtery perſons had been worth the having, might well enough have fetcht them in alſo. Therefore though after theſe generall and

and ſpacious words, there followeth a grant of divers particular things, as Sites, Circuits, Granges, Meaſes, Lands, Tithes,&c. yet I take this to be but an enumeration of the things *in ſpecie*, which before are granted *in genere*; for if the generall words have not carried them, as the body carrieth the members, then it ſeemeth theſe particulars doe not carry them, for they are granted but as Appurtenances to the ſaid Monaſteries, and Houſes, for the words be, Sites, Circuits, Lands, Tithes, &c. appertaining or belonging to every ſuch Monaſtery; words in my underſtanding onely of explanation and reſtraint, and not trenching to the enlargement of the grant.

So that upon the matter the Parliament hath granted Tithes and Appropriations to the King, if they belonged unto the Monaſteries, and not otherwiſe. Let us therefore ſee whether they belong or not.

*Whether Tithes. and Appropriations belonged to the Monaſteries, or not?* § 4.

Abbots, Priors, and ſuch religious men had two ſorts of Tithes; one incorporate to their Houſes, which I call Monaſticall Tithes: the other depending upon their function, as they were Parſons of any Pariſh, which therefore I call Pariſh Tithes. 1. The firſt of theſe came unto them, as their very lands did, by plain point of Charter; for before the *Lugdune* and *Lateran* Councels, every man might beſtow his Tithes upon what religious Houſe perſon he liſted: and then the founders and benefactors of religious Houſes did ordinarily grant all or ſome portion of their Tithes to thoſe Houſes, as by a multitude of precedents there-

of appeareth. From hence it riſe that the Monaſteries had ſo many portions of Tithes, or rents for them (which we call Penſions) out of ſo many ſeverall and remote places of the kingdome; and therefore all theſe Tithes (how unjuſtly ſoever they were conferred upon them) were *de corpore Monaſterii*, and paſſed undoubtedly to the King. 2. But the other ſort, that is, Pariſh Tithes, belonged onely to the Parſon of the Pariſh, by reaſon of his function, and incumbency; which function, though by act of Appropriation, it were collated upon theſe religious men, yet did it not inveſt the property of thoſe Tithes in their Monaſteries, but made their perſons capable of them by reaſon of that their function; for without their function of being Eccleſiaſticall perſons, they could not have them, being forain unto them, as I may tearm it, and not domeſticall, as belonging to their houſe, or monaſticall, as belonging to their conventuall body.

*Neol. Foſſard dedit an.* 1081. *Aldwino Abbati de Ramſey, viz. Deo, &c. Eccleſiam de Bromham & terram ad duas carrucas, & decimas trium villarum, & de duobis molendinis & totã decimam de propria aula. Liber MS. Ramſey pag.* 240.

§ 5. *In what ſort they were granted to the King.*

Though the Parliament hath power to diſpoſe temporall inheritance, and to make Lawes to binde the rights of ſubjects, yet it is confeſſed by the Books of the Law themſelves, that it can eſtabliſh nothing againſt the law of God; and therefore if Tithes be in the Clergy by the Law of God, as before we have ſhewed, then can they not be pulled from him by any law of man. Neither hath the Parliament as it ſeemeth attempted to doe it, but inſomuch as they were miſemployed by the Clergy of that time, therefore the Parliament took them from them, and gave them to the King, not in any new courſe of property, or to be enjoyed

enjoyed by him as his temporall inheritance: but to be his in as large and ample manner (ſaith the Statute) as the Governours of thoſe religious Houſes —— *had or ought to have the ſame.* Now it is apparent, that the Governours of religious Houſes, neither had them, nor ought to have them, otherwiſe then to the ſervice of God, and benefit of the Church.

*To what end they were granted to the King.* § 6.

This point dependeth upon the precedent, for the end why they were given unto the King, is declared by the manner of giving them unto him. Therefore though the Statute ſaith, *To have and to hold* —— to his Majeſty, his heirs, and their own wils, to doe and uſe therewith, his and their own wils; yet leſt their wils ſhould decline from the due employment of them (as the religious perſons did) therefore the Statute addeth theſe words, *to the pleaſure of God, and to the honour and profit of this Realm.* So that the King had not the things themſelves ſimply, but in ſuch manner onely as the religious perſons had them, and that being but to the ſervice of God, and benefit of the Church, the King could have them in no other manner then for the ſervice of God, and benefit of the Church; and then to the words ſubſequent in the *Habendum, viz.* to doe and uſe therewith their wils, is no more, then if we ſhould ſay, That the King, &c. ſhould have them to diſpoſe of in the ſervice of God and of his Church, according to his own will and wiſdome; which the words annexed plainly intimate, appointing unto the King by what bounds and marks hee muſt walk in diſpoſing of them, namely ſo, as may

be to the pleaſure of God, and the honour and profit of the Realm. But it cannot be to the pleaſure of God, that his Miniſters ſhould be defrauded; nor to the honour and profit of the Realm, that the ſervice of God ſhould be hindered, or neglected, and therefore the King muſt have and hold them to thoſe purpoſes, and to none other.

And that the King was not deceived in this kinde of conſtruction of the Act of Parliament, it appeareth by a Declaration made by himſelf freely in an Oration of his unto the Parliament, *Anno* 37. of his reign, « where he ſaith, —— I cannot a little rejoyce, when « I conſider *the perfect truſt and confidence*, which you « have put in me, as men having *undoubted hope*, *and un-* « *feigned beleef*, in my good doings and juſt proceedings; « for you without my deſire or requeſt, have commit- « ted to my order and diſpoſition all Chauntries, Col- « ledges, Hoſpitals, and other places ſpecified in a cer- « tain Act, firmly truſting, that I will order them to « the *glory of God*, *and the profit of the Common-wealth.* « Surely, if I contrary to your expectation ſhould ſuf- « fer the *Miniſters* of the Church to decay, or *Learn-* « *ing* (which is ſo great a jewell) to bee miniſhed, or « poor and miſerable to be unrelieved, you might well « ſay, that I being put in ſo ſpeciall a *Truſt*, as I am in « this caſe, were no truſty friend to you, nor charitable « to my *even Chriſtian*, neither a lover of the publique « wealth, nor yet one that feared God, to whom ac- « count muſt bee rendred of all our doings. Doubt « not I pray you, but your expectation ſhall bee ſer- « ved more *Godly* and *Goodly*, then you will wiſh or « deſire, as hereafter you ſhall plainly perceive, &c.

So that the King hereby doth not onely ingenuouſ-

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ly confeſſe the *Truſt* committed to him by the Parliament, in the ſame manner that the Act aſſigneth it, *viz.* to be for the *glory of God, and the profit of the Common-wealth:* but he deſcendeth alſo into the particularities of that *Truſt*, as namely, for the maintenance of the *Miniſters*, the advancement of *Learning*, and proviſion for the *poor*.

*That the King might not take them.* § 7.

In the 45. chap. of *Ezekiel*, God commandeth the Prophet to divide the Land into three parts, one for God himſelf, and his ſervants the Prieſts, the other for the King, and the third for the people. And then he ſaith, *Let this ſuffice, O yee Princes of Iſrael*, v. 9. *Leave off cruelty and oppreſſion, and execute judgement and juſtice, take away your exactions from my people.* And again, *chap.* 46. 18. *The Prince ſhall not take of the peoples inheritance, nor thruſt them out of their poſſeſſions, but he ſhall cauſe his ſonnes to inherit his owne poſſeſſion, that my people be not ſcattered every man from his own poſſeſſion.*

Though the ſaid Texts ſavour ſomething of the *Leviticall* Law, as to preſerve the Tribes from confuſion, yet they preſent alſo unto us rules of *Morall* juſtice. Firſt, that in the diviſion of the Kingdome, wee muſt remember to give him a part for his honour, that giveth us all for our neceſſities; therefore he ſaith in another place, (45. 1.) *When yee ſhall divide the Land for inheritance, yee ſhall offer an oblation unto the Lord, an holy portion of the Land.* Secondly, that the Prince muſt be contented with the portion aſſigned him, and not to diſturbe the people in

their poſſeſſion, but not God eſpecially in his, for that is priviledged further and defended with another iron barre, *it is an oblation*, ſaith the Text, *unto the Lord, yea, it is an holy portion of the land.* Holy, becauſe it is offered unto God, and holy again, for that being offered unto the Lord it is ſevered from the injury of man, it muſt not be violated, nor plucked back, it muſt *not be ſold, nor redeemed, it is an inheritance ſeparate from the common uſe, it is moſt holy unto the Lord*, Lev.27.28.

It being thus manifeſted, what are the chief ends and uſes of Parſonages, it appears how unjuſt it is to tolerate Appropriations, and how miſerable their condition is who hold them: Oh how lamentable is the caſe of a poor Approprietary, that dying, thinketh of no other account, but of that touching his lay vocation, and then comming before the Judgement ſeat of Almighty God, muſt anſwer alſo for this ſpirituall function; firſt, why he medled with it, not being called unto it; then why (medling with it) he did not the duty that belongeth unto it, in ſeeing the Church carefully ſerved, the Miniſter thereof ſufficiently maintained, and the poor of the Pariſh faithfully relieved. This, I ſay, is the uſe whereto Parſonages were given, and of this uſe we had notice before we purchaſed them; and therefore not onely by the Laws of God, and the Church, but by the Law of the Land, and the rules of the Chancery, at this day obſerved, we ought onely to hold them to this uſe, and no other. Look how many of the Pariſhioners are caſt away for want of teaching, he is guilty of their bloud; at his hand it ſhall be required, becauſe he hath taken upon him the charge. He ſaith, he is Parſon of that place, and of his own mouth will God judge him, for

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idle Parſons are guilty of the bloud of the Pariſhioners; and this S. *Paul* ſheweth, when he ſaith, I thank God I am pure from the bloud of all men, *Act.* 20.26. meaning he taught the counſell of God ſo faithfully, as if any be not ſaved thereby, their bloud is upon their own heads, for ſhe on his own part addeth, that hee hath kept nothing back, but ſhewed them all the counſell of God, *v.*27.

It is not therefore a work of bounty and benevolence to reſtore theſe Appropriations to the Churches, but of duty and neceſſity ſo to doe. It is a work of duty to give that unto God that is Gods, *Mat.* 22.21. and a work of neceſſity towards the obtaining remiſſion of theſe ſins; for, as S. *Auguſtine* ſaith, *Non remittitur peccatum, niſi reſtituatur ablatum, cum reſtitui poteſt. Auguſtin. Macedon. Ep.*54. The ſin ſhall not be forgiven without reſtoring of that which is taken away, if it may be reſtored.

*Of the Statute of diſſolution, that took away Impropriations from the Church.* § 8. 27 H.8.c.27.

We muſt note touching that firſt Statute, the time wherein it was made, the perſons by whom, the circumſtances in the carriage and effecting of it, and the end why. The time, while it was yet but dawning of the day, or twilight of both Religions. The perſons, then members of the Parliament, half of them I fear, if not the greater half, either abſolute Papiſts, or infected with Romiſh Religion; the other half yet in effect but κατηχόμενοι, and *candidati reſtitutæ religionis*, and ſo could not by and by conceive all dependencies in ſo great a work, and what was fit in every reſpect,

to

to be provided for. The circumſtances, incident to the buſineſſe, as the great and ſtrong oppoſition of the adverſe party; which happily was ſo potent in Parliament, as if opportunity had not been taken at ſome advantage for paſſing of the bill, whileſt many of them were abſent, it had not paſſed ſo ſoon: and this might well cauſe haſte in the carriage of it, and haſte imperfection. How it fell out in that point I doe not know, but I have heard that *anno* 1. *Mariæ*, when the Laws of *H.* 8. touching the *Premunire*, and of *Ed.* 6. touching Religion were repealed, the matter was ſo handled as there were but 28. perſons in the Parliament Houſe to give their voice with the Bill, and yet carried it; So in this buſineſſe the great haſte and deſire to effect it, and the great matters aimed at, as the tranſferring of all Monaſteries Livings unto the King, made ſome things in the Act to paſſe unconſidered, and no doubt amongſt other theſe appropriate Parſonages; which in truth are not named in that Act, but carried away in the fluent of generall words, wherein though Tithes be inſerted, yet the word may ſeeme onely to intend ſuch portions of Tithes as belonged to the Monaſtery it ſelf, as many did, and not thoſe belonging unto Appropriations, ſince the Appropriations themſelves are not there named. But I will excuſe the matter no farther then equity; for after Religion had gotten ſome ſtrength, the following Act of 31 *H.* 8. *c.* 13. gives them expreſly to the King by the words, *Parſonages appropried, Vicarages, Churches, &c.* yet was all this done in the heat and agony of zeal then privily enflamed on all parts againſt the Romiſh religion, inſomuch as other inconveniences and enormities likewiſe followed thereon, as in *Ed.* 6. the burning of many

This Parliament begunne 5. *Octob.* 1554 and ended 5. *Decemb. Fox p.* 1396. *Col.* 2. *l.* 1.

A Parliament of 28. Biſhops, &c. to undoe 28. generall Councels happily not halfe 28.

many notable Manuſcript Bookes, the ſpoiling and defacing of many goodly Tombes and Monuments in all parts of the kingdome, pulling down of Bels, Chancels, and in many places of the very Churches themſelves.

*Moſes* for haſte broke the Tables of the Law; and theſe inconveniences in ſuch notable tranſmutations cannot be avoided, ſome corn will goe away with the chaffe, and ſome chaffe will remain in the corn; mans wit cannot ſuddainly, or eaſily ſever them. Therefore our Saviour Chriſt foreſeeing this conſequence delayed the weeding out of the tares from the wheat, till the Harveſt was come, that is, the full time of ripeneſſe and opportunity to doe it. Beſides, light and darkneſſe cannot be ſevered *in puncto*, the day will have ſomewhat of the night, and the night ſomewhat of the day: the religion profeſſed, brought ſomething with it of the religion aboliſhed, and the religion aboliſhed hath ſomewhat ſtill that is wanting in ours; and neither will ever be ſo ſevered, but each will hold ſomewhat of the other: no rent can divide them by a line. When the children of *Iſrael* came out of *Ægypt*, they brought much of the *Ægyptian* infection with them, as appeareth in the Scripture, and they left of their rites and ceremonies among the *Ægyptians*, as appeareth in *Herodotus*. Therefore as *Moſes* renued the Tables that were broken through haſte, and time reformed the errors of religiõ amongſt the *Iſraelites*: So we doubt not but his Mty, our *Moſes*, wil ſtill proceed in repairing theſe breaches of the Church, and that time by Gods bleſſing wil mend theſe evils of ours. I will not take upon me like *Zedechias* to foretell, having not the ſpirit of prophecy, but I am verily perſwaded, that ſome are already borne that ſhall ſee theſe Appropriate

Diſcipline *in genere*, according to the Primitive Church, not *in ſpecie* as they uſe it.

Parſonages reſtored to the Church: let not any man think they are his, becauſe Law hath given them him, for *Tully* himſelf the greateſt Lawyer of his time, confeſſeth, that, *Stultiſſimum eſt exiſtimare omnia juſta eſſe quæ ſita ſint in populorum inſtitutis aut legibus*, Nothing to be more fooliſh then to think all is juſt that is contained in the Laws or Statutes of any Nation. Experience teacheth us, that our own Laws are daily accuſed of imperfection, often amended, expounded, and repealed. Look back into times paſt, and we ſhall find that many of them have been unprofitable for the Common-wealth, many diſhonourable to the kingdome, ſome contrary to the Word of God, and ſome very impious and intolerable, yet all propounded, debated, and concluded by Parliament. Neither is this evill peculiar to our Country; where hath it not reigned? *Eſay* found it in his time, and proclaimeth againſt it, *Wo be unto you, that make wicked Statutes, and write grievous things.* So *Tully* and the Roman Hiſtorians cry out, that their Laws were often, *per vim, & contra auſpicia impoſitæ reipublicæ*, by force and againſt all religion impoſed upon the Commnon-wealth. God be thanked we live not in thoſe times, yet doe our Laws and all Laws ſtill, and will ever in one part or other taſte of the cask, I mean of the frailty of the makers. It is not therefore amiſſe (though happily for me) to examine them in this point, if they be contrary to the Word of God, for I think no man will defend them, they leave them to be a Law. God cannot be confined, reſtrained, or concluded by any Parliament, let no man therefore (as I ſay) think that he hath right to theſe Parſonages, becauſe the Law hath given them him; the law of man can give him no more then the law

*De legibus.*

*Orat. in M. Anton. per ſervos, per vim, per latrocinium.*

law of Nature, and God will permit. The Law hath given him *jus ad rem*, as to demand it, or defend it, in action againſt another man, it cannot give him *jus in re*, as to claim it in right againſt God. *Canoniſts*, *Civilians*, and common Lawyers, doe all admit this diſtinction, and agree, that *jus ad rem eſt jus imperfectum*, right to the thing is a lame Title, they muſt have right in it, that will have perfect Title. The Law doth as much as it can, it hath made him *rei uſufructuarium*, but it cannot make him *rei dominum*, the very owner of the thing. The books of the Law themſelves confeſſe, that all Preſcriptions, Statutes, and Cuſtomes againſt the law of Nature (or of God) be void and againſt Juſtice.

*V. Na. Br. 14. f. 369. Jus perfectum cum poſſideatur in promiſſ. imperfectum dum non poſſideatur promiſſ.*

*Doct. & Stud. li. 1. c. 2. f. 4. a.*

*That the King may better hold Impropriations, then his Lay Subjects.* § 9.

No man by the Common law of the Land can have inheritance of Tithes, unleſſe he be Eccleſiaſticall, or have Eccleſiaſticall juriſdiction. Lord *Coke part* 5. *Rep. fol.* 15. and *Plowd. fol.* So that he which hath Eccleſiaſticall juriſdiction, though he be no Eccleſiaſticall perſon, yet by the ancient Law of the Land, he may enjoy Tithes: and this concurreth not onely with the Canon Law, but ſeemeth alſo to be warranted by the example of the Provinciall *Levites*, who medled not with the Temple, and yet received their portion of Tithes, and other Oblations, as well as thoſe that miniſtred in the Temple. But it plainly excludeth all ſuch as be meerly Lay from being capable of them; let us then ſee by what better Title the King may hold them.

As the head cannot give life and motion to the divers members of the body, unleſſe it hold a correſpondency with them in their divers natures, and compoſitions: So the King, the head of the politique body, cannot govern the divers members thereof in their ſeverall conſtitutions, unleſſe he participate with them in their ſeverall natures; which becauſe they are part Lay, and part Eccleſiaſticall, the juriſdiction therefore whereby he governeth them, muſt of neceſſity have a correſpondent mixture, and be alſo partly Lay, and partly Eccleſiaſticall; to the end that from theſe divers fountains in the perſon of his Majeſty, thoſe divers members in the body of the kingdome may according to their peculiar faculties receive their juſt and competent government. My meaning is not, that a Prince cannot in morall matters govern his ſubjects profeſſed in religion, unleſſe himſelf doe participate with them in ſome portion of their ſpirituall vocation: for I ſee that the Apoſtles themſelves were therein ſubject to the Heathen Princes, and gave commandement to all Chriſtians in generall, that they likewiſe ſhould doe the ſame; and thereupon S. *Auſtin* ſaith, *that in thoſe things that concern this life, wee muſt be ſubject to them that govern humane things*. But my meaning is, that a temporall Prince cannot properly diſpoſe the matters of the Church, if he have not Eccleſiaſticall function, and ability, as well as Temporall; for I doubt not but that the government of the Church, and of the Common-wealth, are not only diſtinct members in this his Majeſties kingdome, but diſtinct bodies alſo under their peculiar heads, united in the perſon of his Majeſty, yet without confuſion of their faculties, or without being ſubject the one to the other. For the King, as meerly a temporall Magiſtrate, com-

Rom. 13. 1. 2 Pet. 2. 13.

*Oportet nos ex ea parte quæ ad hanc vitam pertinet, ſubditos eſſe poteſtatibus, i. hominibus res humanas cum aliquo honore adminiſtrantibus. in li. expoſ. quarundum propoſitinum, ex Ep. ad Rom.*

commandeth nothing in Eccleſiaſticall cauſes, neither as the ſupream Officer of the Church doth he interpoſe in the temporall government: but like the common arch ariſing from both theſe pillars he protecteth and combineth them in perpetuall ſtability, governing that of the Church by his Eccleſiaſticall juriſdiction, and that of the Common-wealth by his temporall. For this cauſe, as *Moſes* was counted *in ſacerdotibus, Pſal. 99. 6.* though he were the temporall Governour of the people of *Iſrael*, ſo the Laws of the Land have of old armed the King, *perſona mixta, medium*, or rather *commune quiddam inter laicos & ſacerdotes:* and have thereupon juſtly aſſigned to him a politique body, compoſed as well of Eccleſiaſticall juriſdiction, as temporall, like to that of *David*, *Jehoſaphat*, *Hezekias*, and other Kings of *Juda*, who not onely in reſpect of their Crown, led the Armies of the people againſt their enemies: but as anointed with the holy oyle, ordered and diſpoſed the very function of the *Levites*, of the Prieſts, and of the Temple, as you may read in their ſeverall lives in the books of the *Kings* and *Chronicles*.

But the Kings of *England* have proceeded yet further in the gradations of Eccleſiaſticall profeſſion, as thinking it with *David*, more honourable, to be a doorkeeper in the Houſe of God, then to dwell in the tents of the ungodly, that is, to execute the meaneſt office in the ſervice of God, then thoſe of greateſt renowne among the Heathen and Infidels. Therefore they have by ancient cuſtome even before the Conqueſt, amongſt other the ſolemnities of their Coronation, not only been girt with the regall ſword of Juſtice by the Lay Peers of the Land, as the embleme of their temporall authority, but anointed alſo by the Biſhops with the

oyle of Prieſthood, as a mark unto us of their Eccleſiaſticall profeſſion and juriſdiction. And as they have *habenam regni*, put upon them, to expreſſe the one, ſo alſo have they *ſtolam ſacerdotii*, commonly called *veſtem dalmaticam*, as a *Leviticall* Ephod, to expreſſe the other. The reaſons of which, if we ſhall ſeek from the ancient Inſtitutions of the Church, it is apparent by the Epiſtle of *Gregory* the great, unto *Aregius* Biſhop of *France*, that this *veſtis dalmatica*, was of that reverence amongſt the Clergy of that time, that the principall Church-men, no not the Biſhops themſelves, might wear it without licence of the Pope. And when this *Aregius*, a Biſhop of *France*, requeſted that he and his Archdeacon might uſe it, *Gregory* took a long adviſement upon the matter, as a thing of weight and novelty, before he granted it unto them. But 22. years before the time of *Edward* the Confeſſor, (unto whom thoſe hallowed veſtures happily did belong, with which his Majeſty was at this day conſecrated) theſe *dalmaticæ*, otherwiſe called *albæ* & *ſtolæ*, were by the Councell *Salegunſtadienſ. cap.* 2. made common to all Deacons, and permitted to them to be worn in great ſolemnities, which the Kings of *England* alſo ever ſince *Edward* the Confeſſors time, if not before, have always been attired with in their Coronations.

*Ep. l.* 7. *c.* 111.

*Propter ſolennitatem Sp.S. Diaconi dalmaticis induantur. Idem Decr. p. diſtinct.* 76. *de Jejunio.*

And touching their unction, the very books of the Law doe teſtifie to be done, to the end, to make them capable of ſpirituall juriſdiction, for it is there ſaid, that *Reges ſacro oleo uncti ſunt ſpiritualis jurisdictionis capaces*; the Kings being anointed with the holy oyle are now made capable of ſpirituall juriſdiction. This ceremony of unction, was not common to all Chriſtian Kings, for they being about *Hen.* 2. time, 24. in number, onely four

four of them beſides the Emperor were thus anointed, namely, the Kings of *England*, *France*, *Jeruſalem*, and *Sicil.*

The firſt Engliſh King as far as I can find, that received this priviledge was *Elfred* or *Alured*, the glorious ſon of noble and devout *Ethelwolphus* King of Weſt-Saxony, who about the year of our Lord 860. being ſent to *Rome*, was there by *Leo* 4. anointed and crowned King, in the life of his father, and happily was the firſt King of this Land that ever wore a Crown, whatſoever our Chroniclers report (for of the 24. Kings I ſpeak of, it is affirmed in ancient books, that only four of them were in thoſe days crowned.) But after this anointing, *Alured* (as if the Spirit of God had therewith come upon him, as it did upon *David* being anointed by *Samuel*,) grew ſo potent and illuſtrious in all kindes of vertues, as well divine as morall, that in many ages the world afforded him no equall: zealous towards God, and his Church, devout in prayer, profuſe in alms, always in honourable action, prudent in government, victorious in wars, glorious in peace, affecting juſtice above all things, and with a ſtrong hand reducing his barbarous ſubjects to obedience of Law, and to love equity; the firſt learned King of our Saxon Nation, the firſt that planted literature amongſt them; for himſelf doth teſtifie in his Preface to *Gregories* Paſtorall, that there were very few on the South-ſide *Humber*, but he knew not one on the South-ſide of the *Thames*, that when he began to reign, underſtood the Latine Service, or could make an Epiſtle out of Latine into Engliſh, &c. He fetched learned men from beyond the Seas, and compelled the Nobles of his Land to ſet their ſons to ſchool, and to apply

*Willaſius R x Merciorum ſubditus Ethelwolphi regis weſt-Sax. Coronat. Ingolf. 856. l. 56.*

ply themſelves to learn the Laws and Cuſtomes of their Country, admitting none to places of Juſtice without ſome learning, nor ſparing any that abuſed their places, for unto ſuch himſelf looked diligently. He divided the Kingdome into Shires, Hundreds, Wapentakes, and them again into Tithings and free Bourghs, compelling every perſon in his Kingdome to be ſo ſetled in ſome of thoſe free Bourghs, that if he any way treſpaſſed, his fellows of that free Bourgh anſwered for him.

The memory of this admirable Prince carrieth me from my purpoſe; but to return to it, his ſucceſſors have ever ſince been conſecrated, and thereby made capable of ſpirituall juriſdiction, and have accordingly uſed the ſame in all ages, and thought by the Pope to be ſo enabled unto it, that *Nicholas* 2. doubted not to commit the government of all the Churches of *England* unto *Edward* the Confeſſor, as by and by we ſhall more largely declare. And the Kings of *France* being ſo likewiſe conſecrated ever ſince the time of *Clodoveus*, aliàs, *Ludovicus*, whom Saint *Remigius* Biſhop of *Rheimes*, both baptized and anointed about the year of our Lord 500. have from time to time, in all ancient ages exerciſed the like Eccleſiaſticall juriſdiction: inſomuch that *Clodoveus* himſelf being but newly entred into it, doubted not to appoint a Councell at *Orleans*, and to call thither the Biſhops and Clergy of *France*, but out of the motion of Prieſtly minde, (to uſe the very words of the Councell) cõmanded the Prieſts, (meaning the Biſhops) to aſſemble there for debating neceſſary matters, which in his own conſideration he had adviſed upon, and delivered to them in heads and titles; and they having anſwered thereunto, and framed the Canons of that Councell, accordingly did ſubmit them to his judge-

ment,

ment, and desiring if it approved them, himself for greater authority would confirm them. *Tom. 2. Concil. pag. 309. in rescripto Synodi.*

The Kings of *Jerusalem* and *Sicil*, were also anointed and endowed with Ecclesiasticall authority, whereof we shall speak more anon: for the right of both these Kingdomes resideth at this present upon the Kings of *Spain*, who till the same came unto them, were neither anointed, nor crowned; and though since that time, they have been dignified with both these Prerogatives, yet are they not so illustrious in them, as in the Kings of *England* and *France*, for that these are ancient Kingdomes, raised by their own power and prowesse, and those other of lesse continuance, erected by the Pope, and not absolute, but Feodaries of his Sea. And touching that of *France* also, the meer right thereof resteth upon his Majesty of *England*, though *de facto*, another for the time possesseth it: So that in this point of unction, our Soveraign the King of *England* is amongst the rest of the Kings of Christendome, at this day Peerlesse and transcendent; and well therefore might *William Rufus* say, that himself had all the liberties in his Kingdome which the Emperour challenged in his Empire. *Mat. Paris.*

But I wonder, why the Papists should so confidently deny the Kings of *England* to be capable of spirituall jurisdiction, when Pope *Nicholas* 2. of whom wee spake before in an Epistle to King *Edward* the Confessor, hath upon the matter agreed, that it may be so; for amongst other priviledges that he there bestoweth upon the Church of Saint *Peter* of *Westminster* then newly founded by that vertuous King; *He granteth, and absolutely confirmeth, that it shall for ever be a place*

*of Regall Constitution and Consecration, and a perpetuall habitation of Monkes that shall be subject to no living creature, but the King himself, free from Episcopall service and authority, and where no Bishop shall enter to give any orders, &c.* Tom. Concil. part 3. pa. 1129. a.

In which words I note, first, that the Kings of *England* in those ancient days, being before their Coronation meerly Lay persons, were by their consecration made *candidati Ecclesiasticæ potestatis*, and admitted to the administration thereof; for to what other purpose was Consecration ordained, but to make secular things to belong unto the Temple, and Lay persons to become sacred and Ecclesiasticall: like *Jacobs* stone in the time of the *Morall* Law, which presently upon the anointing thereof became appropriate to the House of God.

Secondly, he plainly maketh the King head of this Monastery, that is, of the place it self, and of all the persons and members therof, which then by consequence he might likewise be of all other Ecclesiasticall persons and places through the whole Kingdome. And even that also he granteth in a sort in the end of his Epistle, *Vobis & posteris vestris regibus committimus advocationem & tuitionem ejusdem loci, & omnium totius Angliæ Ecclesiarum, ut vice nostra cum consilio Episcoporum & Abbatum, constituatis ubique quæ justa sunt.* So that if the Kings of *England* be pleased to execute this Ecclesiasticall authority as the Popes Vicar, then by this his Charter they are invested therewith; and peradventure the Clergy of *Rome* can never revoke it, being granted *posteris regibus*: and the Epistles of the Popes, being as *Barclayus* saith of *Nich.* 1. to *Michael* the Emperour, as an Ecclesiasticall Law, *Lib. de potest. Papæ. ca.* 2. *pag.* 13.

But in the mean time it is hereby evident, which I endeavour to prove, that the Kings of *England* are juſtly capable of ſpirituall juriſdiction by the Popes own confeſſion, for which purpoſe onely I here alledge it. And to give more life to the matter, it appeareth by *Baronius*, that Pope *Vrbane* the granted not onely as much in the Kingdome of *Sicil* to the King of *Spain*, being the anointed King thereof, but added alſo to that his Eccleſiaſticall juriſdiction, divers branches of ſpirituall power belonging meerly to the keys, and not to the ſword, that is, to the very function of a Biſhop, as namely, that of Excommunication. All which, though *Baronius* impugneth mainly to be of no validity, becauſe that all things are void, (he ſaith) that the Church doth againſt her ſelf: yet the King of *Spain* both holdeth, and exerciſeth this function and juriſdiction onely by the connivency of the Pope, but defended therein by Cardinall *Aſcanius Colonna*, againſt *Baronius*.

But to leave forain examples, and to goe on with our domeſticall precedents; It is manifeſt by other ancient Authorities, Charters, and Manuſcripts, that the Pope thereby granted no more to King *Edward* and his ſucceſſors, then the ſame King, and his Predeceſſors, before aſſumed to themſelves. For this Epiſtle could not be written to S. *Edward*, before the end of his reign, (*Nicholas* not being Pope till then) and in the Laws of the ſame King, before that time publiſhed, himſelf doth plainly declare himſelf to be, *Vicarius ſummi Regis*, not *ſummi pontificis*: yea, and that in the government of the Church. For the words of his own Law, Ἀρχαιονομ. *cap.* 17. be theſe--- *The King becauſe he is the Vicar of the higheſt King, is appointed to this purpoſe, that he ſhould*

*rule his earthly Kingdome, and the Lords people: and ſhould above all things worſhip his holy Church, and govern it, and defend it againſt them that would wrong it, and to pull the evill doers out of it, &c.* So that write the Pope what he will, S. *Edward* here taketh upon him to have the rule and government of the Church of *England* (committed to him from God, and not from the Pope) and to be Gods Vicar, not the Popes: wherein he imitated his predeceſſors; for King *Edgar* ſpeaking of the government of the Church, ſaith in plain tearms, that it belonged to himſelf, *ad nos* (ſaith he) *ſpectat.* And becauſe *Caſaubon* in citing this place out of the Manuſcript, is charged by *Parſons* to falſifie it, and that it is, or ſhould be on the contrary, *ad vos ſpectat, ſcil. Eccleſiaſticos:* give me leave to defend that worthy man being now dead, in whoſe behalf I muſt avow that the originall is plainly *ad nos*, and not *ad vos*; which leſt it ſhould ſeem either miſtaken, or queſtionable, King *Edgar* himſelf doth manifeſtly clear it, both by deeds and words: for of his own authority he removed generally the Clerks of that time, that were not profeſſed, out of the Monaſteries, and placed in their rooms, Monks and regular perſons, as appeareth by his owne words, in his Charter of *Malmesbury*. (*Malmsb. pag.* 58. *l.* 17.) And alſo in the foundation Book of the *Abbey* of *Wincheſter*, written all in golden letters, wherein likewiſe he preſcribeth the rules for the government of the religious perſons there; and ſaith, that himſelf will look to the Monks, and that his wife *Elfthryth* ſhall look to the Nuns. And leſt it ſhould ſeem that he had done this rather out of the will of a Prince, then by juſt authority, *Hoveden*, and *Hiſtoria Fornalenſis*, doe teſtifie, that he did it by the advice and means

of

of *Ethelwould*, Biſhop of *Winton*, and *Oſwald*, Biſhop of *Worceſter*. So that the very Clergy of that time, agniſed, executed, and affirmed his juriſdiction herein: which I will cloſe up with a materiall ſentence out of his Charter in *Glaſtenberry*, extant in *Malmsbury de geſt. Reg. li. 2. pag. 57.* where the words be theſe, *Conceſsit etiam* (ſcil. Edgarus) *ut ſicut ipſe in propria, ita totius inſule cauſas, in omnibus tam Eccleſiaſticis quàm ſecularibus negotiis, abſque ulla ullius contradictione Abbas & Conventus corrigeret*, that is, King *Edgar* granted, that the Abbot & Covent of *Glaſtenberry* ſhould correct (or amend) all cauſes, as well Eccleſiaſticall as ſecular, within the whole Iſle of *Glaſtenberry*, as himſelf did within his own Iſle, namely, of *England*. So that the King here denounceth, that himſelf hath the correction or ordering of all Eccleſiaſticall cauſes within this his Iſle. And in further declaration thereof doth by that his Charter by and by after prohibit all Biſhops from medling within the Iſle of *Glaſtenberry*: and leſt he ſhould ſeem to doe a new thing, he cloſeth it up with this apology, That his predeceſſors, *Cemwines*, *Ines*, *Ethelardus*, *Cuthredus*, *Elfredus*, *Edwardus*, *Ethelſtanus*, *Edmundus*, had all of them done the like; and he might have added out of *Bede*, *l. 2. c. 7.* that *Cenwalch* King of Weſt-Saxon, of his own authority divided the Sea of *Agilbert* his Biſhop, being a French man, and of another language, which he underſtood not, and gave one part thereof unto *Winus* a man of his own Nation, which though he were afterwards compelled by neceſſity and diſcontent of *Agilbert* to reunite, yet his ſucceſſor *Inas*, divided them again, and then they ſo continued. *Hen. Huntingtonl. 4. pa. 33. l. 49.*

It is true, that *ad majorem cautelam*, King *Edgar* required

red *John* 12. to confirme theſe priviledges, leſt any, as he ſaith, ſhould in future time, either take them away, or throw out the Monks, but himſelf had firſt done it of himſelf; and the vigor that the Pope added to it, was rather a fortifying of it with a curſe againſt robbers, and ſpoilers, then an enlargement of the validity thereof, as quickning thereby a liveleſſe body. For ſo likewiſe may the Popes own authority be diſputable, inſomuch as he alſo required the generall Synod, then holden at *Rome*, *Anno* 965. (as *Malmsbur.* ſaith) to confirm it. But the faſhion of thoſe times was, that ſecular Princes ſought ſometimes to have their temporall Laws confirmed by the Pope with a curſe againſt the breakers thereof, as did *Howell Dha*, for thoſe his Laws of *Wales*; and in like manner was it uſuall for Councels and Synods to ſeek the confirmation of their Canons from temporall Princes, as did that of *Orleans* before ſpoken of from *Clodoveus*, and the Councell of *Toledo* from *Euricus*, who made a ſpeciall Law for eſtabliſhing it, as you may ſee in the Laws of the *Wiſegothes*, *l.* 12. *tit.* 1. *ca.* 3. *ut ſic gladius gladium adjuvaret.*

It may be objected, that *Edgar* being the great King of this whole Iſle, (for he ſtyled himſelf *totius Albionis baſileus*) might uſurp upon the Church, and doe theſe things rather in the will of a Prince, then by juſt authority. It is manifeſt partly by that which I ſaid before, but plentifully by his Charters, that the Clergy of that time were ſo far from denying, or repining at this his juriſdiction, that they affirmed and ſubſcribed unto it, as appeareth in his Charters. And how large ſoever his Dominion was, his humility was as great, for though in matters of government he carried himſelf

ſelf as the head Officer of the Church, yet in matters of faith he was ſo obedient, that to expiate his incontinency with a Nun, he threw himſelf at the feet of *Dunſtan* his Biſhop, ſubmitted himſelf to ſeven years penance, and preſumed not to be conſecrated till the 14. year of his reign.

But theſe things were no novelties either in the perſon of *Edgar*, or in the Princes of thoſe ages; for the minor Kings themſelves within the orbs of their own Dominion uſed the like juriſdiction, as you may perceive by thoſe cited by *Edgar*, in the Charter of *Glaſtenberry*, and by many other in particular Charters of their own. Yea, the Kings of *Mercia* that were but vaſſals, and underlings to the Kings of Weſt-Saxony, within the limits of their little Kingdome uſed the ſame plenitude of authority, as appeareth by the Charter of *Kenulphus*, who lived about the year 850. made to the Abbot of *Abingdon*, wherein he ſaith, —— *Sit autem prædict' rus liberum ab omni regali obſtaculo, & Epiſcopali jure, in ſempiternum ævum, ut habitantes ejus nullius regis aut miniſtrorum ſuorum, Epiſcopive aut ſuorum officialium jugo deprimantur, ſed in omnibus rerum eventibus as defenſionibus cauſarum Abbatis Abbindenenſis, Monaſterii de cætero ſubjiciantur, Term. Trinitat. 1 H. 7. f. 18. b.* And it is there ſaid by the Judges, *fol. ſeq. b.* that many Abbeys in *England*, had larger words then theſe in the Kings Charter, as, *Omnimoda juſtitia & quicquid regales poteſtates conferri poſſunt.*

To leave the Saxon Kings, and to come to the *Normans*, that we may ſee by what channell this fluent of authority hath been deduced to his Majeſty. *Lanfranc* Archbiſhop of *Canterbury*, in the Conquerours time, would have given the Abbotſhip of S. *Auguſtines*, but the

the new King, (ſaith the book) i. *William* the Conquerour, did deny it, ſaying, *that he would conferre all Paſtorall Staves in his Realm, and would not conferre that power to any whatſoever. Govern you* (ſaith he) *that which appertaineth to faith and Chriſtianity among the Monks, but for their outward ſervice, you ſhall let me alone with that.*

You ſee here, that the King doth not in covert manner, or by little and little, creep into Eccleſiaſticall juriſdiction, but with an abſolute reſolution, whileſt he yet ſtood as it were but upon the threſhold of his Kingdome, and might juſtly fear ſome notable tranſmutation in diſcontenting his Clergy, the halfe arch of his Kingdome, even then hee forbare not to conteſt with them upon points of juriſdiction, confining theirs unto matters of faith, and extending his own to the uttermoſt limits of the outward government of the Church. But becauſe his hand and his ſeal doe more authentically enforce credit, then the report of Authours and Hiſtorians, ſee what he aſſumeth in his Charter of foundation of the Monaſtery *Sancti Martini de bello*, commonly called *Battail Abbey*, for that he built it (as *Romulus* did the Capitol) in the place where he overcame his enemies. In this Charter he granteth that, *That Church ſhall be free from all ſervitude, and from all things whatſoever mans invention can imagine,* —— *and commandeth therefore that it be free from all government of Biſhops* —— *neither ſhall the Biſhop of* Chicheſter, *though it be in his Dioceſſe, make any Ordinations there, nor grieve it in any thing, nor execute any kind of government, or authority there; but that it be as free* (ſaith he) *from all his exactions, as my own Dominicall* (*or Demeſne*) *Chappell. The Abbot ſhall not be compelled to goe to the Synod, nor forbidden to promote his Monks to holy Orders, where himſelf*

*ſelf liſteth; nor he, or his Monks to require what Biſhop they will to conſecrate Altars, &c. And this alſo by my Regall authority,—I ordain, that the Abbot ſhall be Lord and Judge of all things in his own Church, and within one league round about it, &c.* ſee the Charter at large. Here it appeareth, that this victorious King *Will.* 1. took himſelf to have, *Pallium Eccleſiaſticæ juriſdictionis*, the fulneſſe of Eccleſiaſticall power; and as the ſupream Magiſtrate thereof, not only abridgeth and revoketh the juriſdiction of other Biſhops within this place, as of the Archbiſhop of *Canterbury*, and the Biſhop of *Chicheſter*, but diſpoſeth the ſame according to his owne pleaſure, namely, to the Abbey of *Battail*, with ſo great enlargement of priviledge and authority, as no Biſhop of the Kingdome hath the like. *Free from all ſervitude, and from all things whatſoever mans invention can imagine*, are exquiſite words of priviledge, and how far they might ſtretch at thoſe times, (when the profeſſion of our Laws was not a ſcience) into Regall, or Canonicall juriſdiction, I cannot judge: but I know by *Staffords* caſe, 1 *H.* 7. *f.* 18. they will now bee reſtrained with many exceptions. So likewiſe, that the Abbot ſhall not be compelled to come at Synods, or to take Ordinations for his Monks, or Conſecration of Altars, &c. from the Biſhop of his Dioceſſe, are directly againſt the Decrees of the Church, Canons, Synods, and generall Councels. As alſo it is, that hee ſhould be Judge of things in his own Church, and the circuit aſſigned, which though here it bee but a league, I ſee not, but he might as well have made it ten, if it had pleaſed him, and by conſequence a County, or Province. And leſt the King ſhould ſeem to have done this by ſome indulgence from the Pope, or

*Nec aliquis Epiſcoporum in Diœceſi collegã ſuum ſupergrediatur. Con. Carthag. c. 19. Burchard li. 1. ca. 64.*

connivency of his own Clergy, he ſaith expreſly, that he doth it by his *Regall authority*, and that not cloſely, or under-hand, but *Epiſcoporum & Baronum meorum atteſtatione*. And to declare how far the Clergy of that time was from repining or impugning this his juriſdiction, the Archbiſhop of *Canterbury*, the Biſhops of *Chicheſter*, *Winton*, and *Worceſter*, are witneſſes to the Charter, and denounce a curſe againſt the breakers thereof. One other thing alſo is worthy of note, that the Kings Demean Chappell, ſeemeth by this, not to be within the juriſdiction and Dioceſſe of any Biſhop, but exempt and as a Regall peculiar reſerved onely to the viſitation and immediate government of the King, or ſuch as it pleaſeth him to ſubſtitute; for the Archbiſhop of *Canterbury* hath no juriſdiction there by his own confeſſion, *ut pat. Hoveden l.* 4. 7. *pa.* 547.

*William Rufus* in like manner told *Anſelme* Archbiſhop of *Canterbury*, that no Archbiſhop or Biſhop of his Kingdome ſhould be ſubject to the Court of *Rome*, or to the Pope, —— *Quòd nullus Archiepiſcopus vel Epiſcopus regni ſui* (ſaith *Mat. Pariſ.*) *curiæ Romanæ vel Papæ ſubeſſet*. And becauſe *Anſelm* asked leave of him to fetch his pall from Pope *Vrbane* at *Rome*, —— *hanc ob rem* (ſaith *Mat. Pariſ.*) *à rege majeſtatis reus poſtulatur*; he is called in queſtion of High Treaſon, and *Gundulphus* Biſhop of *Rocheſter*, and very many other Biſhops approved the accuſation; *In vita Will.* 2. *p.* 17. & 18. *Malmsbery* reporteth that his offence was for appealing to the Pope in matters between the King and him; but he agreeth that all he had was confiſcate, and himſelf baniſhed by conſent of the Biſhops; and he addeth further, that being after recalled into the Kings favour, upon a new difference between

the

the King and him, he appealed the ſecond time to Pope *Vrbane*, and without the Kings licence would go thither, for which cauſe his whole Biſhopricke and goods were reſeiſed into the Kings hands, and he exiled. And though the Pope threatned to excommunicate the King, if he reſtored him not, and the Councell then holden at *Rome*, ſtormed much at the matter, yet *Anſelm* continued in that plight during the lives both of the King and the Pope.

*Malmsb. de geſt. Pontif. li.* 1. *pa.* 221, *&c.*

*FINIS.*

BRITISH MUSEUM

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# AN APOLOGY OF THE TREATISE

*De non temerandis Eccleſiis.*

## AGAINST A TREATISE BY an unknowne Authour, written againſt it in ſome particulars.

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By Sir *Henry Spelman*, Knight.

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## ALSO HIS EPISTLE TO *Richard Carew* Eſquire, of *Anthony* in *Cornwall* concerning Tithes.

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*LONDON*,
Printed by *F. L.* for *Philemon Stephens*, and are to be ſold at his ſhop in *Pauls* Church-yard, at the ſigne of the gilded Lion. 1646.

BRITISH

# TO THE READER.

THe first Treatiſe, *de non temerandis eccleſijs*, being publiſhed above thirty years agoe, there wanted not the approbation of the beſt and moſt religious men in behalfe thereof: neither alſo wanted there one of a contrary humour, to oppoſe ſomething: which though it be in ſuch weak manner, as deſerved not any juſt anſwer from ſo eminent a perſon, yet it pleaſed the learned knight, out of his care to inſtruct him and others, to ſhew the weakneſſe of his reaſons: and that not onely in this apology, but alſo in a more ſerious worke, his learned Gloſſary, ſo much commended, and deſired to be finiſhed, by great Princes and chiefe men, both at home and in forraign parts. The paſſage ſhall be here inſerted for a more full teſtimony of the Authors judgement, and of the weakneſſe of the adverſaries reaſons.

## Excerptum è Gloſſario Domini *Spelmanni* pag. 238. in voce *Eccleſia*.

ECcleſia] *pro templo, ſeu domo, qua fideles conveniunt, ritus divinos celebraturi. Lippis & tonſoribus notum;*

*adducor tamen ut asseram, quod sciolus quidam libellum nostrum* De non temerandis Ecclesijs, *pro Marte suo impetens, graviter mihi imponit, τὸ ecclesijs dixisse hac significatione. nec patitur vir bonus ut easdem, ædes appellarem sacras: ludibrio enim habet ejusmodi epitheton, locis vel ædibus attributum. Carpsisset æquiùs, si ignotis ei vocabulis,* Basilicis, Dominicis, Titulis, Curiacis, Martyrijs *vel similibus usus fuissem. Sed doctrinam hominis & farinam videris.*

*Occurrit* ἐκκλησια *apud Græcos veteres, ut* Curia, *&* Senatus *apud Romanos, non solùm pro cœtu & congregatione, sed etiam pro loco in quem convenitur, ut ipsa lexica testantur.* Lucianus, καὶ διαστάσαι τὴν ἐκκλησίαν, *i.e. ubi ecclesiam (scil. Curiam in qua consultant) undique stravero. perhibetur & Apostolus, secundum plures interpretes, antiquos, medios, recentiores, hoc sensu dixisse.* τὰς ἐκκλησιας τοῦ θεοῦ καταφρονεῖτε, *Ecclesiam Dei contemnitis. Liquide Synodus Laodicena,* ἐν τῇ ἁγιωτάτῃ ἐκκλησια τῆς ἁγιωτάτης μαρτυρ & εὐφημιας. *i.e.* in sanctissima ecclesia sanctissimæ martyris euphemiæ. *Tertull. lib. de fuga in persecut. sec.* 3. Conveniunt in ecclesiam : confugiunt in ecclesiam. *Augustin. epist.* 109. Quando ergo simul estis in ecclesia, & ubicunque viri sunt, invicem & pudicitiam custodite. *Hieronymus in* Esaiam *cap.* 60. Videmus Cæsares,---- ædificare ecclesias expensis publicis. *& epist.* 8. Alij ædificent ecclesias, vestient parietes marmorum crustis, columnarum moles advehant, earumque deaurent capita, &c. *fastidit in re tam nota olei tantum perdere; clarum est* Ecclesiam *idem esse christianis, quod* Synagogam *Judæis; & Augustinum habes in eandem sententiam in* Psalm. 82. *unde & priscus quidam.*

Nobis ecclesia datur, Hebræis Synagoga.

*Plura si cupias, numerosa habeas exempla in Burchardi Decretorum. lib.* 3. *qui* de ecclesijs, *inscribitur.*

1 Cor. 11.22.

Besides also not to conceale the doubts and apprehen-

sions

ſions of wiſer and more learned men upon the argument, there was alſo a gentleman of eminent quality and learning, Mr. *Richard Carew* of Anthony in Cornwall who was not ſatisfied in all points, with this treatiſe of Sir *Henry*, whereupon he wrote his doubts in ſome particulars unto him; ſubmitting much to his judgement. Vnto whom for ſatisfaction, Sir *Henry* wrote a very pious epiſtle which ſhall here follow after the apology for ſatisfaction to the better ſort, who ſometime ſtumble out of private intereſt, or paſſion, as well as inferiour men. Hoping that ſuch will be eaſily corrected in their opinion as Mr. *Carew* was, being a Gentleman ennobled no leſſe in regard of his parentage and deſcent, then for his vertue and learning, as *Cambden* teſtifieth of him in his Britannia.*

* In *Cornwall.*

# THE APOLOGY.

*This Apology cleareth ſome paſſages, as,*

1. *Touching the word* Eccleſia, *which ſignifies either a materiall Church, or the Congregation of the people aſſembled.*
2. *An explication of the text of* Eſa. 56. 7. My houſe ſhall be called the houſe of prayer.
3. *The place of the Apoſtle,* 1 Cor. 11. 12. Deſpiſe ye the Church of God?
4. *The expoſition of the* 83. Pſalm. *againſt ſuch as deſtroy Churches, and the maintenance of them, and the Miniſters.*
5. *The number of Churches ſpoild among us.*

COming to my worthy friend Sir *Ralph Hare*, and lying a while idle there, I thought that idle time fittеſt for ſome idle worke, and diſpoſed my ſelfe therefore to give ſome anſwer to ſuch paſſages of this Treatiſe, as the Author at his pleaſure hath very idly if not maliciouſly taxed me in. But being far from my books, and having not ſo much as that Treatiſe of his by me, or any note out of it, I ſhall no doubt forget, miſtake, omit, and miſplace many things. Wherein (good Reader) I muſt entreat thy patience and favour.

It being brought unto me, I ranne over divers leaves thereof, wherein I met *multa verba, nulla verbera*; but judging therefore the Author by his worke, I thought neither of them worth the anſwering: himſelfe, as it ſeemeth, ſome rude Naball delighting in contentions and uncivill ſpeech: wherein I will not contend with him, onely I will conſider of his reaſons, though indeed they are ſuch as will ſhew him to be a weake adverſarie *Qui ſtrepit magis quàm ſauciat*. And therefore though I ſit ſafe out of his dint, yet will I let the reader ſee, how vainely he beſtoweth his ſhot, and how farre from the marke.

As

As for the parts of my booke wherein I labour as he ſaith, to prove tithes to be due *jure divino*, and his anſwers thereto, my purpoſe is not here to medle with them, for that they require a more ſpacious diſcourſe then either that volume admitted, or I now meane to enter into, it being not a private queſtion, betweene him and me, but long controverted by greater clerks) and left to this day as *queſtionem vexatam non judicatam*. The truth is, the courſe of my argument lead me upon it, and I therefore produced ſome arguments tending to the maintenance thereof, but referring the point unto a greater work, and forbearing to declare my ſelfe therein, without ample and more laborious examination of ſo great a controverſie: leaving therefore that as a generall cauſe, whereof he may perhaps have more another time, I will here wage my ſelfe againſt him onely in thoſe things, wherein he chargeth me particularly in my owne perſon; and paſſing over amongſt them ſuch ſnatches of his, as ſcarcely ruffle the haire, I will onely meddle with thoſe parts, where he thinketh he biteth deepeſt.

Firſt, he quarrelleth with me about the title of my booke, in that I uſe the word *Eccleſia* for a materiall Church, or (as in contempt he termeth it) a * *ſtone-houſe*: affirming in his learning, that it ſignifieth onely the congregation: which aſſertion if he could make good, would give him a great hand in the cauſe, for that much of his argument following lieth very heavily upon this pin. Surely if I gueſſe right ſome Dictionary hath deceived him, for perhaps his reading reacheth not ſo far, as to reſolve him herein: but if two thouſand authorities be ſufficient to defend me withall, I ſpeak it without *hyperbole*, I aſſure my ſelfe I could produce them. Who knoweth

* Steeple-houſe.

knoweth not how ordinary a thing it is, to have one word ſignifie both the perſons, and the place: as *Civitas*, the citizens, or towne; *Collegium*, the ſociety or houſe; *Senatus*, the Senators, or Senate houſe; *Synagoga*, the aſſembly, or place of aſſembly. I am ſure he will confeſſe, that where it is ſaid, *He loveth our nation and hath built us a ſynagogue*: It is not there meant of the perſons, he built them a congregation, but of the place. A *Synagogue*, and *Eccleſia*, ſignifie both one and the ſame thing, the congregation, or place of congregation; in which ſenſe we Chriſtians notwithſtanding uſe onely the word *Eccleſia*, for our congregations, and houſes of prayer, for that the Jews had taken up the other word, for their Oratories, according to an old verſe:

*Nobis Eccleſia datur, Hebræis Synagoga.*

And in this manner was the word ἐκκλησία uſed amongſt the Greeks before the Chriſtians borrowed it from them, as it appeareth by ſome of your Lexicons, where it is ſaid, ἐκκλησία, *Cœtus, concilium, congregatio*, &c. *ponitur etiam pro loco ipſo in quem convenitur*. Lucianus, καὶ διαῤῥώσαντα τὴν ἐκκλησίαν. i.e. *Ubi curiam (in qua conſultant) undique ſtravero*. And that the Church hath ever ſince uſed it in the ſame ſort ſhall by and by appeare, when we come to inſiſt more particularly upon this point. Faine would I know what himſelfe would call one of our *ſtone-Churches*, in Latine. *Templum*, ſavours of Judaiſme; and if I ſhould have uſed a word of the ancient Fathers, and ſaid, *De non temerandis Baſilicis, Curiacis*, or *Dominicis*, it may be I ſhould have driven him to his Dictionary, and yet left him puſled. I thought *fanum* too prophane a word, but he perhaps would think it ſo much the fitter; for a Church, and a play-houſe ſeem a like to him.

Another of his quarrels is that I apply the place of *Iſaiah* the Prophet, *cap.* 56. 7. *My houſe ſhall be called an houſe of prayer*, locally to places of prayer, whereas he ſaith, it was ſpoken figuratively of the congregation of the faithfull. I exclude not that ſenſe, but I aſſure my ſelfe our Saviour Chriſt, when he whipt the ſellers out of the Temple, not out of the congregation, applied this Scripture to the very place of prayer: and it is queſtionleſſe that the old and late claſſicke writers ſo expound it.

*Some quotations here were intended out of ancient and moderne Authors, which though I could eaſily ſupply, yet being loth to adde any thing to the originall copie, I leave it to the learned reader to conſult the Commentators, which is eaſily done.*

Againe it much offends him, that I interpret the words of Saint *Paul* 1 Cor. 11. 12. *Deſpiſe ye the Church of God?* as ſpoken of the materiall place, which after his manner he will alſo have to be onely underſtood of the Congregation; and had the word *eccleſia* no other ſignification, then doubtleſſe he had obtained the cauſe. But obſerue I pray, what I have formerly ſaid touching that point, and then take into your conſideration, the words of the Apoſtle as they lye in that chapter. Firſt in the 18. verſe he ſaith, συνερχομένων ὑμῶν ἐν ἐκκλησίᾳ. *Quando conveniſti in eccleſia.* For theſe be the very words, and how we ſhall Engliſh them is the queſtion. Whether when ye come together in the Congregation, that is, in the aſſembly; or when ye come together in the Church, that is, in the place of the aſſembly. I confeſſe the words indefinitely ſpoken may beare either interpretation, and I condemne neither of them in this place. Yet let us ſee which is more probable, or at leaſt whether my treſpaſſe deſerves his

his reprehenſion. The Apoſtle continuing his ſpeech upon the ſame ſubject, in the 20. *verſ.* goeth on thus: συνερχομένων ὐν ὑμων ἐπὶ τὸ αὐτὸ: as if he ſhould ſay, *conveni-entibus igitur vobis in eodem*; leaving ἐπὶ τὸ αὐτὸ, *in eodem*, ſpoken neutrally, and as it were, to be applied either to the aſſembly, or the place; which to put it out of doubt, *Beza*, and our Engliſh *Geneva* tranſlation doe adde the word, *locus*, a place, in a different letter, to declare the meaning of the Apoſtle and read it accordingly: *When you come together therefore into one place.* So that now it is determined how the word *Eccleſia*, or Church, in the 18. *verſ.* before going is to be expounded: and then joyne the words ſubſequent unto it, wherein the Apoſtle complaineth of the abuſing that thing, which before he ſpake of, and in reprehenſion of the abuſe committed therein by eating and drinking; he ſaith *verſ.* 22. *Have ye not houſes to eate, and to drink in? or, deſpiſe ye the Church of God?* Where the very *antitheſis* of houſes, to eate and drink in, with the Church of God doe ſtill purſue the precedent interpretation of *Eccleſia* for the place of aſſembly: as if diſtinguiſhing betweene places and not perſons, he ſhould have ſaid, Your houſes are the places to eate and drink in, but the Church is the place of prayer: otherwiſe he might perhaps have ſaid, Have ye not other meetings to eate and drinke at, but deſpiſe ye this holy meeting? And I thinke it not without ſpeciall providence, that the Tranſlators therefore did tranſlate here, ἢ τῆς ἐκκλησίας τοῦ θεοῦ καταφρονεῖτε? *an eccleſiam Dei contemniti?* Deſpiſe ye the Church of God? not deſpiſe ye the Congregation of God? for the word *Church*, coming of the German word *Kirken*, and that of the Greek word κυριακον, which ſignifieth *Dominicum*, or the Lords Houſe, & was in ancient times, as *Euſebius* and

*Nicephorus* witneſſe, the common name of materiall Churches, doth to this day properly ſignifie the ſame: and we doe never uſe it for a particular congregation, but either generally for the body or ſociety of the faithfull through a whole kingdome, or common wealth; or particularly for the very place of prayer onely.

This foundation being now laid upon the words of the Apoſtle himſelfe, let us ſee how it hath been ſince underſtood by the Fathers, and Doctors of the Church, as well ancient as moderne. *Hierams* opinion appeareth already in my booke, and *Chryſoſtomes* you ſhall heare anon. But this man deſpiſeth the firſt, and therefore I am ſure he will account as lightly of the ſecond. A Senate of Fathers moves him not an haire: a right monothelite, he oppoſeth his owne onely will againſt them all. Yet to ſatisfie ſome others, whoſe eares perhaps may be better in tune, I will cite one who for humbleneſſe of ſpirit, integritie of life, and admirable learning for the time he lived in, hath ever ſince been venerable throughout the world; and no forreigner but our Countreyman *Bede*, who upon theſe words *Numquid domos non habetis?---an Eccleſiam Dei contemnitis?*

*Eccleſia* (ſaith he) *homines ſunt de quibus dicitur ut exhiberet ſibi glorioſam eccleſiam, hoc tamen vocari etiam ipſam domum orationum; idem Apoſtolus teſtis eſt, ubi ait, numquid domos non habetis ad manducandum & bibendum? an eccleſiam Dei contemnitis? & hoc quotidianus uſus loquendi obtinuit, ut in eccleſiam prodire, ad eccleſiam confugere, non dicatur niſi qui ad locum ipſum, parieteſque prodierit, vel confugerit, quibus eccleſiæ congregatio continetur.* But he will ſay that all this old wine ſavours of the caske, therefore we will ſpend no more time in broaching of it. Taſte of the new. *Peter Martyr* upon the place. *Quando convenitis*]

*nitis*] *poteſt* (ſaith he) *hoc referri ad locum qui unus omnes continebat, ita ut notetur corporalis conjunctio, &c.* and then, *An eccleſiam Dei contemnitis ? poteſt accipi Eccleſia* (ſaith he) *pro cœtu ſacro, vel pro loco quo fideles conveniunt,* &c. *Si vero de loco intellexeris* (*ut Chryſoſtomus videtur ſentire*) *docemur contaminari locum ex abuſu. Vnde Auguſtinus dicebat, In Oratorio nemo aliquid agat niſi ad quod factum eſt, vnde & nomen recepit; ad alia munera obeunda plateas & domus habemus.* And complaining of abuſing of Churches he goeth on: *At nunc templa deambulationibus, fabulis & omnibus negotiis prophanis toto die patent C. hriſtus flagello parato ex funiculis, ejectis ementibus, & vendentibus, templum Dei repurgavit:* and goeth ſtill on in this manner much further. *Marlorat* alſo a common and good friend to our Preachers being well pleaſed with this expoſition and invective of *Peter Martyr*, tranſlateth it *verbatim* into his owne Commentary upon this place; and thereby delivereth it alſo to the world as his owne opinion.

But come we now to that part of my booke which puts him moſt out of patience above all the reſt, my application of the 83. *Pſalme* to ſuch as deſtroy Churches, and bereave them of their maintenance. This he ſaith, fitteth my matter as an Elephants skin doth a gnat, yea it hath no cohærency therewith either figuratively, allegoricall, or anagogicall. To retort his ſcoffe I might ſay, it ſeemeth, an Elephant of abſurdity to the Gnat of his learning: but I deſire rather to ſatisfie him (*Si malitia non mutaverit intellectum*) then to diſgrace him.

It cannot be denied if there be a correſpondency betweene the body of our Church and Common wealth, with the body of the Church and Common wealth of the Jewes, the ſame muſt alſo hold proportionably a-

mongſt the members thereof, and in conſequence that the paſſages of ſtate, of government, of peace, warre, liberty, oppreſſion, proſperity, adverſity, and other occurrents either active or paſſive, muſt hold ſome aſpect and analogy, one unto the other. And then alſo that whatſoever is denounced againſt the enemies of the one, trencheth comparatively againſt the enemies of the other. Come then unto the matter. The prophet inveigheth againſt them that ſeeke to ſpoile, oppreſſe, or diſturbe the Church of God ſeated in India; be it openly by war, or ſecretly by ſome ſtratagem of wit: Doth not this thwart them alſo that attempt the like in our Church? Yes, ſaith he, againſt them of the King of Spaines Armado in 88. and thoſe of the Powder Treaſon, wherein the univerſall deſolation both of the King and Kingdome, Church and Common-wealth were not onely projected, but attempted by our enemies.

But ſhew me, will he ſay, what hath the appropriating of a pelting Parſonage, or the pulling downe of a *ſtone-houſe*, which you call a Church, is unto this? for the one is an Elephant, the other but a Gnatt.

I anſwer. *Eadem eſt ratio partium quæ eſt totius.* And out of this reaſon and analogy our Saviour Chriſt argueth him that caſteth but a laſcivious looke to be guilty of the great Commandement, *non mœchaberis*, as well as him that committed the very heinous act it ſelfe: and then alſo that whatſoever the Prophet denounceth againſt them that ſpoile the Church in generall, the ſame deſcends upon every particular man, that ſpoileth the ſame in any particular part: as, *Omne genus prædicatur de omnibus & ſingulis ſuis ſpeciebus etiam infimis & individuis.*

Now that the taking up of theſe parſonages and defacing

cing of places of publike prayer is a ſpoile of the Church of God, appeareth in this, that the meanes and maintenance of the ſeruice of God, and of his miniſters is thereby diminiſhed, and deſtroyed, which ſubtraction of maintenance from the miniſter, God in *Malachi* 3.8. declareth to be a ſpoyling of himſelfe, for that his ſeruice is thereby hindred, and his Church impaired. And although this man affirmeth, that although there were never a *ſtone-Church* or miniſter in the kingdome, yet the Church, and ſervice of God might ſtand well enough, for that every mans family is a Church, and every maſter thereof tyed to inſtruct his ſervants, every father his children : yet by example of the Church in the time of the Apoſtles, we ought to have places of publicke prayer, and ſome to inſtruct theſe maſters and fathers; for the husbandman, the artiſan, the day-labourer, are not commanded to neglect their vocation and turne preachers, as too many now adayes do. And though perhaps ſome ſuch good men out of their devotion would preach now and then to inſtruct their brethren, yet who ſhall do it ordinarily, and where ſhall the Aſſembly be entertained; for every town hath not a Guild-hall, a Seſſions-houſe, a Cock-pit, or a Play-houſe fit for ſuch a multitude. And though they may, as he ſaith, ſerve God abroad with *Paul*; in a dungeon with *Ieremy*, or on a muck-hill with *Iob*, yet heat or cold, wet or wind will hinder them at one time or other : ſo that doubtleſſe it were very neceſſary to have a man, and a place publickly appointed for the ſervice of God in every Congregation. And then ſince this man cannot perform his office without maintenance, and ſuch a place as we ſpeake of, the taking of them away puts him from doing his duty, deprives his pariſhioners of their inſtruction, and then by conſe-

conſequence ſpoyles the Church of God ; and ſo the curſe of the Pſalme lyeth juſtly againſt them.

But let us now take a view of the gnat he ſpeaketh of, and which he contemneth ſo much in reſpect of the ſmalneſſe thereof. Had there been but three or foure of theſe livings taken from the Church, his fancy might have had the more colour, to uſe ſuch fond applications : but if it cometh to three or foure hundred, it groweth now beyond the ſize of a Gnat, what ſhall we then ſay of 3845. livings, or appropriate Parſonages, thus taken from the Church, which is more by 1126. then the halfe of all thoſe that remaine, and within 897. as many as them all : for the Churches not appropriate are but 5439. through all England and Wales. So that the pariſhes of the Churches appropriate containe neare about the one halfe of the kingdome, which is more, if *Hierome* in his Epiſtle to *Dardanus* (as I take it) deceive me not, then twice ſo much as all the land of Iudea, though we reckon the kingdome of Iſrael into it, but many times more then the kingdome of Iudea, which conteined but the two tribes onely that ſtucke to God ; and of whoſe times this Pſalme ſeemeth to be a prophecie. And thus ye ſee both the gnat and the Elephant that he ſpeaketh of, though I mean not to propoſe them to you by way of compariſon, but diſcover his intemperance or want of judgement.

*Dardanus.*

But to ſupport his credit with a broken prop, it may be he will ſay, that upon the appropriating theſe Churches and transferring of them to the King, there was a proviſion left in moſt of the pariſhes for a Vicar, or Curate to do divine ſervice there, and that nothing was taken from them but ſuperfluity : ſo to keepe them in diet, and bridle their immoderate luxurie, which he proclaimeth

meth to be ſo exorbitant as ſcarcely all England, and Virginia to boot, can ſatisfie. Lord bleſſe us! is it poſſible that our Church-men ſhould become ſo monſtrous? or hath *Shimei* thus railed againſt the body of them without his perill? I hope much better of their temperance, then of his tongue: But I leave them to make their own Apology, for I have digreſſed beyond my purpoſe, and therefore will ſpend no time in diſcourſing upon the proviſion made for Vicars and Curates in theſe Churches appropriate. He ſeemeth to be of *Micahs* mind, that ten ſhekels, or a matter of foure nobles a year, beſides diet and a ſuite of apparell is a faire maintenance for one of our Miniſters. In which point I have elſe-where declared my ſelfe at large, and will not therefore here inſiſt upon it; onely this I would know of him, what ſurpluſage, or ſuperfluity there could be to give unto the King, or take from the Church, when beſides the maintenance of the Miniſters, much was to be diſpoſed by them in relieving the poore, and other pious uſes.

C. Hamlin.

# *Henricus Spelmannus Richardo suo*

## *Careo viro præstanti Sal. P. D.*

MAnsuetudinis tuæ prorsus est (vir Eximie) ut hominem me parui, & ignotum, tanta benevolentia amplecterere. Quanquam enim secundum honorum vocabula quæ fastus mundanus jam obtinuit, Equestris dignitas major sit Armigera; in multis tamẽ *Spelmannus* minor est Careo. Nec me certe pudet hoc liberiùs profiteri, Cum magnus ipse sic edocuit *Augustinus*; & Episcopus licet, presbytero cessit *Hieronymo*. Placent equidem & literæ tuæ, & tua omnia; placent seria, placent joci, in nomine verò meo quæ egregia benignitate lusisti non possum in tuo (multò illustriori) retribuere. Palmam igitur cedo, & quod Græcis olim, in Caria sua gente admirati sunt, nos in Carea nostra gente agnoscimus: ingenium splendidum, bellarumque intentionum fæcundissimum. Deus bone! quantum in nomine, & ominis & numinis? Cariæ gentes (inquit *Herodotus* in clione) omnium quæ illis temporibus claruerunt ingeniosissimæ erant. An fatale hoc Careo nomini? etiam in alio orbe, & post tot sæcula? quin & seni? non equidem invideo, miror magis: sed quem laudas authorem? an non Deus hanc tibi præ cæteris copiam fecit? nec sola hæc sed concomitantia multa elargitus est. Quid ergo respondit Simon, (Luc. 7.43.) interroganti domino, Quis plus diliget, nonne is, inquit, cui plus donavit? recte. Nosti quæ volo. Si divina clementia tantas tibi indulserit benignitates; perpende sedulò, quantis tu amoris, muneris

neris & obſequii vinculis tenearis. Bona hæc omnia in te congeſſit bonus hic dominus, animi, corporis, fortunæ: tunc in ipſius familiam hoſtis accingeris? quin & ab eccleſia ſua prædam referes?

*O utinam fortis in re meliore fuiſſes.*

Sed in hoſte probitatem agnoſco; video enim vacillantem te quaſi, & de militia iſta dubiè cogitantem. laudo. At ſanum illud conſilium amplectere, quod omnium judicio probatiſsimum habetur, è dubiis certius tene, nec periculis caput objicias: hoc eſt, omnino te non immiſceas rebus ſacris & deo dicatis, hoc porro tutiſsimum. Vides rem non leviter litigatam à doctiſſimis: Vides patres, Concilia, omnemque Theologorum ſcholam, graviter hos inſectari, qui in res eccleſiæ utcunque involaverunt. Eſto quod de decimis diſſentiant, an ſint de jure divino? in iſto tamen non conſentire ſolùm, ſed & conjuraſſe plane omnes videatur, Deo dicata ſurripi non poſſe in exitium eccleſiæ. Quid autem eſt eccleſiam excindere ſi hoc non ſit? panem tollere miniſtrorum, quin & ſine noxa? At Eccleſiam (aies) in hoc conniviſſe: Epiſcopos conſpiraſſe; parliamentaria ipſa comitia Herculano nodo rem concluſiſſe, & ſanxiſſe? Sanxiſſe dicam? imo Deum teſtor quænam ſit ſanctitas in iſta ſanctione. Sed de re ſumma, ſumma cum humilitate. Noſti quàm lenis ſit eccleſia, tunicam ſubtracturo, pallium etiam dimiſit. *Mat.* 5. Num auferre igitur hæc liceat innocenti? dicant Corvi.

In eo autem cum ſalutis ſpem omnem ſacramque ipſam poſuiſti anchoram; id tandem revolvas animo, quinam hi eſſent Epiſcopi, & quoti? Valerentne ſuis ſuffragiis procerum laicorum multitudini (qui ſpe hæc omnia devoraverant) repugnaſſe? Taceo technas, dolum, inſidias, quæ in tranſigendo negotio forte non defuerant.

Sed

Sed esto ecclesiam læta fronte hæc omnia concessisse; Certe eatenus cum Baronio (Ascanio Cardinali respondente) in sententiam ivero, Ecclesiam nihil posse in se statuere, hoc est, in suam perniciem. Idem enim est & se abnuere, & ministros suos non alere. Nam in primis catalysis illius legibus, nihil statutum est de ministrorum alimonio: mel abripitur, sed nec loculi relinquuntur, nec alveus. Etiam ejiciuntur tam apes, quàm faci, nulla omnino habita examinis ratione. Hoc justum dixeris? Concilio certe tum lapsum est, quod in cæteras itemque regni ecclesias non grassatum sit. Quid enim emeruit ecclesia Petri, ut suis juribus potius privaretur quàm Pauli? Quid ecclesia unius pøpuli magis quam aletrius? à neutris enim peccatum est. Ecce ænigmatis solutionem. Viatorem duplicem furibus eripuimus; liberum hunc adhuc, sed illum vinctum: de utroque statuimus (misericordes) ut invenimus. Emancipatur liber, perpetuo carceri addictus est vinctus. Siccine nos edocuit (Luc. 10.) Samaritanus? Sic fidem nostram apud Deum tuemur?

Jurarunt sane hi omnes, jurarunt, inquam, nostri majores, Reges, proceres, parliamentariæ ipsæ celebritates, hoc est, Regnum integrum, omnisque populus, non suo solum sed & nostro, & nepotum nostrorum nomine, interpositis etiam horrendis execrationibus nulla se unquam temporum æternitate, hæc ecclesiæ surrepturos. Quis obsecro nos liberos faciet ab his vinculis? Quis audax orator causam hanc apud Deum aget? An flocci pendeas? Cave ne fidem, quam apud me splendidam habes illico labefactes. Si beati Rechabitæ, qui nuda ipsa patris sui mandata observaverunt, An non maledicti nos, qui non singularis unius, non privati cujusdam parentis mandata contemnimus? Sed quos dixi horum

omnium fides, ſanctiones, vota, juramenta, pertinaci quaſi improbitate perfringimus, violamus, mandataque nepotibus anathemata, in ſingulorum capita tanquam ex deſiderio pertrahimus, cum refractariis Judæis dicentes, *Super nos ſint, & natos noſtros.*

Vereor inſanos nos (uti Judæos) non diſcernere quæ ex his nobis proveniunt calamitates. Deum enim putemus nec mortalium curare vota, ſed nec perfidiam: Quid ſi lex una repentina, ter dena concilia, Senatus-conſulta totidem, omnium patrum decreta, una exploſione diſruperit? adeone in ea ſic inhærendum eſt ut ne in judicium, ne in examen vocetur? non cogitabo equidem quod in Tridentinum Concilium ſolus auſus eſt & ſatis fæliciter *Chemnitius*. Sed iniquas leges peccanti ſæpe populo irrepere novum non eſt; etiam in pœnam alias à Domino immiſſas eſſe, ut ſcriptum eſt, *Dabo ijs leges quæ non ſunt bonæ*. Mihi autem videtur, cum de abolendis monaſteriis cogitaret Senatus ille conſultus (*Anno 27. Henrici octavi*) nihil etiam tunc in animo habuiſſe de tollendis parochialium decimis prædijſve; ſed de his tantum egiſſe quæ ipſis cœnobiis inherebant: vel ſi quis id in cornu haberet fæni, latuiſſe hoc opinor ſanctos patres qui concilio aderant: in illo enim Actu ne verbum quidem de parochianis decimis nec de eccleſiis, prædiiſve parochialibus. Sed nec de ipſis (quas vocant) appropriatis. Cum verò in vulgus jam exiiſſet Actus ille parliamentarius, cæperintque omnia demoliri, & vi eripi, è juriſconſultorum prodiit interpretatione, ut præda hæc etiam in caſſes regios redigeretur. Partita ergo ea demum inter regni nobiles, neceſſariò tandem habitum eſt, ut ſubalternis legibus corroboraretur.

Sed quò me rapiet fili hujus deductio? diſrumpendum certe eſt, ne ulterius trahar in labyrinthum. Putarem incæpturus

cæpturus ſilentii veniam (verbo uno aut altero) à te exoraſſe; quod in rus vocatum, itineris me cura jam ſollicitat; Quandoquidem vero neque brevis eſt (dum redeam) via, ſed nec tempus; hæc interea nobis excuſſit amor erga te noſter fuſiùs multo quàm cogitarem. Academici autem nitoris nihil in noſtris paginis diſquiras, oportet. Commune enim illud (quod ſcribis) mihi tecum eſt. Cantabrigia (miſerum me) mater exuit cum 17. æſtates non ſalutaveram, trajectoque celerrime Lincolnienſi hoſpitio, in patrium ſolum adoleſcens revocor. Gravibus hinc inde implicitus negotiis privatis, (nec à publicis liber) ter rapior in Hiberniam. Quod reliquum fuit vitæ ſpatium, domi ſatis ærumnoſe exegi, denuò otii deſiderio captus Londinum tertio hinc anno veni: pace vero mihi videbar exoptatiſſimâ fruiturus, qua Muſarum limina ex voto delibarem. Sed En! nova in me rerum tempeſtas, nova litium moles, inopinatè proruit; qua luctantem adhuc varieque agitatum, neſcio quouſque detinuerit. Poetæ autem illud teneo,---- *dabit Deus his quoque finem*. Habes vitæ noſtræ compendium; & (quam vides) magnam amoris effuſionem donec aliis tuis (per literas) quæſitis reſpondero. Sancte & fæliciter vale.

*Londini*, 18. Septemb. 1615.

# A Treatiſe concerning Impro-priations of benefices,

*Cum privilegio regali.*

## THE PREFACE.

*To the King our moſt gracious Sovereigne Lord,*

Francis Bigod *Knight, his humble and true faithfull ſubiect, and daily Oratour, wiſheth daily augmentation and increaſe of grace and honour.*

I Did not perfytly know (moſt gracious, moſt chriſten, and moſt vyctorious Prince) how that amonge all other vertues, that the vertuous gyftes given by grace only, throughe the goodnes of Almighty God, of the incomparable gyfte of gentlenes and humanite, did ſo habundantly, accumulately, and ſo manifeſtly poſſeſſe and reigne in your noble and princely hart, till that now it appeareth manifeſtly by your exterior noble acts and deedes; for els undoubtedly I would not only have bin aſhamed ſo to attempt rudely, fooliſhly, and rather preſumptuouſly to trouble and diſquiet ſuch an imperyall majeſty, with this my rude and barbarous writing, in the hinderance of your godly and ſpirituall ſtudies, with which your highnes taketh ſuch intollerable paine: as well to ſet forth the mere ſyncere and new glory of God, as alſo the eſtabliſhment, quietnes, and unitie of this your chriſten Comen welthe. But alſo in my owne conceit and opinion calling to remembrance my great and manifold inſufficiency in learning, to write unto ſo mighty and famous a Prince I ſhould even by and by have diſallowed mine owne behaviour in that behalfe, and judged my ſelfe worthy of blame. but now conſi-

dering moſt benigne Soveraigne Lord, how much all your ſubjects be imperpetually bound to laud, praiſe, and glorifie almighty god, to ſend unto us ſo Chriſten a kinge to have rule and governance over us your ſubjects, by whoſe great and ineſtimable diligent labour, charge, ſtudy and paine, we be delivered from the hard, ſharpe, and X.M. times more than judicyall captivity of that Babylonicall man of Rome to the ſweet and ſoft ſervice, yea rather liberty of the goſpell. I can for my part no leſſe do, then to preſent to your grace ſomthing thereby to declare how gladly I would give thankes to your highnes, for ſuch proofs, as I among others have received by this ſaid benefit in our deliverance which act is of it ſelfe ſo highly to the great peace, unyte and welth of this moſt noble Empyre of England, that if there were non other cauſe but that only we were bound to and with all our diligence and induſtry to ſtudy, labour and deviſe how this benefit exceeding all other, might world without end be extolled, praiſed, and made immortall, and to receyve how much the furtherance of gods glory is by the ſame act ſet forth and advanced, my learning ne yet wytte will not ſerve me. Yet I dare boldly afferme, pondering and conſidering depely the effect and circumſtance of this matter, This act is no leſſe worthe then well worthy to be ſet in the booke of Kings of the old teſtament, as a thing ſounding to gods honour, as much as any other hiſtory therein conteyned. but what ſhould I attempt or goe about to expreſſe the condigne and everlaſting praiſes and thankes, which your majeſty hath deſerved of all your hole Cominalt for the benefites before named, unleſſe I would take in hand like an evill workeman which by reaſon of his unperfectnes in his ſcience ſhould utterly ſtaine and deface the thing he would

would moſt earneſtly and diligently ſhew and ſet forthe. I will therefore moſt excellent Emperor of this realme, ſet all this aſide, and ſhew to your grace the cauſe of my enterpriſe, for ſo much as I perceave that all your gracious proceedings are onely driven and conveyed to the moſt highe, juſt, and ſincere honour of Almighty God, the publique welth, and unity of all Chriſtendome, moſt eſpecially of this your moſt noble Realme of England, it hath animated and incouraged me according to the ſmall talent of learning that the Lord hath lent to me to put your grace in remembrance of the intollerable peſtilence of Impropriations of benefices to religious perſons, (as they will be called) ſome to men, and ſome to women, which in mine opinion is a thing plainly repugnant to the moſt holy and bleſſed decrees and ordinances of Almighty God, and highly to the extolling, ſupporting, and maintenance of the uſurped power of the Biſhop of Rome, as your Majeſty ſhall perceave in reading of this little treatiſe, which your grace not being offended, I ſhall ever, God willing, be able juſtly to defend, and alſo ſtop the mouthes of them, that ſhall ſay and abide by the contrary, and that not with mine owne words, but with authorities of holy Scripture. And further I doe moſt humbly upon both my knees beſeech your Imperiall Majeſty, that unto ſuch time, as this my little book be cleerly confuted by like holy Scripture and authorities, as I have approved theſame, that it may ſafely goe abroad under protection of your gracious and redoubted name.

And for the proſperous preſervation of your moſt royall eſtate, of your moſt noble and vertuous Queene, of your deere daughter Lady Princeſſe, daughter and

heire to you both, (according to my moſt bound duty) I ſhall daily pray, my life enduring.

Note. Sir *Francis Bigott* Knight of Yorkſhire wrote this Treatiſe: whereof this Preface I received from Sir *Henry Spelman*, but the reſt of the book, I could neve yet finde, thoughe it be mentioned by ſeverall Authors, *Bale*, *Hollinſhead*, and lately by Sir *Richard Baker* in his hiſtory, It ſeemes to have bin written after the Kings breach with the Pope, his marriage with *Anne Bolen*, and the birth of Queen *Elizabeth*: as I conjecture by circumſtances. His purpoſe was chiefly bent againſt the Monaſteries who had unjuſtly gotten ſo many Parſonages into their poſſeſſions. It is much deſired that if any man have the reſt of the book, that he would pleaſe to communicate the copy, that hereafter, as occaſion ſerves, it may be publiſhed compleatly, together with ſome other things of this argument, that the learned Knight hath committed to my charge: but by reaſon of the preſent troubles I cannot now attend to prepare them for the Preſſe. As for Sir *Francis Bigott* himſelfe, he was found afterwards active in the troubles of Yorkſhire, that happened in 28. *H.* 8. and being apprehended among others, was put to death, 29, *H.* 8. as our common Chronicles doe report.

*Baleus* ſaith of him.

*Franciſcus Bigott ex Eboracenſi patria auratus eques, homo natalium ſplendore nobilis, ac doctus, & evangelica veritatis amator, Scripſit contra clerum.* ----- De Impropriaribus. lib, 1. *Quoſdam item latinos libros anglicanos reddidit, inter ſeditioſos tandem, anno Domini* 1537, *invito tamen eo, repertus, eadem cum illis indigna morte periit.*

To

# To the right Reverend Fathers and Brethren, the Biſhops and Miniſters of *Scotland*.

I Have cauſed this little Treatiſe (right reverend and beloved in the Lord Jeſus) to be printed againe in North-Britaine, for many cauſes: firſt, becauſe I was informed, that there came forth, but a few copies at the firſt printing thereof in South-Britaine: Againe, I hope this doing will incite that worthy Knight, the Authour thereof, quicklier to ſend out the greater worke, which he promiſeth of that ſame argument; but principally to incite you, whom theſe matters moſt nearely doe concerne, to look into them more adviſedly, then as yet ye have done: it was a private occaſion, as that worſhipfull Gentleman ſheweth, that led him to this writing: You have a publique, whereof it is pitty you are ſo little moved: who ſeeth not the ſtate of the Church of *Scotland* as concerning the patrimony to go daily from worſe to worſe? *Sacrilege* and *Simony* have ſo prevailed that it beginneth to be doubted of many, whether there be any ſuch ſinnes, forbidden by God, and condemned in his Word? Neither can you deny the cauſe of this evill, for the moſt part to have flowed from your ſelves: your ſelling and making away of the Church rights without any conſcience, the buying and bartering of benifices, with your ſhameleſſe and ſlaviſh courting of corrupt patrones, hath made the world

thinke, that things Eccleſiaſticall are of the nature of Temporall things, which may be done away at your pleaſures: and where at the firſt it was meere worldlineſſe that led men on thoſe courſes, now a great many to outface conſcience, and delude all reproofes, they ſtand not to defend that Lands, Tithes, yea whatſoever belonged to the Church in former ages, may lawfully be alienated by you, and poſſeſſed by ſeculars: which opinion muſt either be taken out of the mindes of men, or need you not looke to have theſe wicked facts in this kinde unreformed: to this end ſhould all Eccleſiaſticall men labour to informe themſelves, as well by the Word as by the writings of Ancients, and Conſtitutions of Councels, touching the right and lawfulneſſe of eccleſiaſticall things, that when they are perſwaded themſelves of the truth, they may the more effectualy teach others. There is no impiety againſt which it is more requiſite you ſet your ſelves in this time: for beſides the abounding of this ſinne and the judgement of God upon the land for the ſame, who doth not foreſee, in the continuance of this courſe the aſſured ruine and decay of true Religion?

Of all perſecutions intended againſt the Church the *Julian* was ever held to be the moſt dangerous: for *occidere presbyteros*, is nothing ſo hurtfull, as *occidere preſbyterium*. When men are taken away, there is yet hope, that others will be raiſed up in their places: but if the meanes of maintenance be taken away, there followeth the decay of the profeſſion it ſelfe: Men doe not apply themſelves commonly to Callings, for which no rewards are appointed; and ſay that ſome have done it in our dayes, ſome out of zeale, and ſome out of heat of contention, yet in after-times it is not like to continue

ſo;

ſo; neither let any man tell me, that a Miniſter ſhould have other ends propoſed to him, then worldly maintenance. I know that to be truth, yet as our Lord in the Goſpel, *hoc etiam oportet facere, Et illud non omittere.* Speaking of payment of tithes to the Phariſees: It behoveth them, ſaith he, to be paid: if not, it is not to be expected, that men will follow the Calling.

To reſt upon the benevolence of the people, as it is a beggarly thing, and not belonging to the dignity of the Miniſtery, ſo the firſt maintainers of that conceit have found the charity of this kinde ſo cold, that they will not any more ſtand by their good-wills, to this allowance. Therefore it lieth upon you to foreſee the eſtate of your Church, and either in this point of maintenance to provide that it may be competent and aſſured, elſe looke not for any thing but ignorance and baſeneſſe, and all manner of miſchiefes which flow from theſe, to invade the whole Kingdome.

How a competency may be provided, except by reſtoring the Church to her rights, I doe not ſee; and what this right is, if I ſhould ſtand to define, and juſtifie it here, I ſhould exceed the bounds of an Epiſtle. Many of this time have cleared the point ſufficiently. And if any ſcruple be remaining, the worthy Authour, I hope, will remove it in the greater worke we expect: whoſe judgement and dexterity in handling the argument, may be perceived by this his little pinnace. It ſhould ſhame us of our calling to come behinde men of his place, either in knowledge, or zeale. His example who is nothing obliged, to labour in theſe points, as you are, ſhall doe much, I truſt, with you, for the time to come. Should any look carefuller to the Vineyard then the keepers? or ſhould any out-goe the ſervants of the houſe in diligence?

gence? Repent therefore and amend your owne negligence, in this behalfe, and call upon others for amendment, whileſt you have time. Thinke it not a light ſin, to ſpoile Gods inheritance; and if we look for heaven, let us be faithfull to our Lord here on earth. I beſeech God to give us all wiſdome, and keep us in minde of that ſtrict account, that we muſt one day give for all our doings, and chiefly theſe which concerne the Church, which is his body. *Amen.*

Note. I thought good not to omit this Epiſtle to the Clergy of *Scotland*, prefixed before this edition at *Edenborough*, preſently after the firſt impreſſion here; both becauſe it proceeded from a pious intent of the Authour, who it ſeemes was very well affected, as alſo becauſe he ſheweth the concurrence and approbation of the beſt religious in that Kingdome, where ſacrilegious practiſes have invaded that Church, more violently, ſince the dayes of reformation, and cleare light of the Goſpel, then ever was done in the darkeſt times of popery. *Rollo* a grave and learned Divine of *Scotland* hath (beſides Maſter *Knox* and others), in his Commentary upon *Dan.* 2. & 5. diſcovered his judgement againſt the ſacrilegious practices of his time, and countreymen, reprehending them ſharply, for taking to their owne uſe and profit, all that was pulled from the Church: and doth ſeverely cite them to anſwer it before the tribunall of God: which though they neglect and contemne, yet (ſaith he) they ſhall be made inexcuſable thereby.

Maſter *Knox* not long before his death, wrote to a Generall Aſſembly holden at *Sterling*, 6. *Auguſt* 1571. and his Letter is among the Records of that Aſſembly, out of which it is alſo publiſhed, with many other Records of Parliaments, and Aſſemblies there holden in the compaſſe of ſixty years, in a Declaration lately of the Church of *Scotland*.

The mighty Spirit of Comfort, Wiſdome, and Concord remaine with you: Deare brethren, if ability of body would have ſuffered, I ſhould not have troubled you, ----- &c. ---- but now brethren, becauſe the daily decay of my naturall ſtrength threatens unto me certaine and ſudden departure from the miſery of this life, of love and conſcience I exhort you, yea in the feare of God, I charge and command you, that you take heed to your ſelves, and to the flock over the which God hath placed you Paſtours. To diſcourſe of the behaviour of your ſelves I may not, but to command you to be faithfull to the flock, I dare not forget. Unfaithfull traytours to the flock ſhall ye be before the Lord Jeſus, if that with your conſent, directly or indirectly ye ſuffer, unworthy men to be thruſt into the Miniſtery of the Church, under what pretence that ever it be. Remember the Judge before whom ye muſt make an account, and reſiſt that Tyranny, as ye would avoid hell fire. This battell I grant will be hard, but the ſecond part will be harder, That is, with the like uprightneſſe and ſtrength in

God, ye gain-ſtand the mercileſſe devourers of the patrimony of the Church. If men will ſpoile, let them doe it to their owne perill and condemnation; but communicate ye not with their ſinnes of whatſoever ſtate they be, neither by conſent, nor yet by ſilence, but with publique proteſtation make this knowne to the world, that ye are innocent of ſuch robberies, which will, ere it be long, provoke Gods vengeance upon the committers thereof, whereof you will ſeeke redreſſe of God and man. God give you wiſdome, ſtrength and courage in ſo juſt a cauſe, and meane happy end.

*Knox.*

Saint *Andrews.* 3. Auguſt. 1571.

# An answer to a question of a Gentleman of quality (proposed to and made by a Reverend and learned Divine living in *London*) concerning the settlement or abolition of Tithes by the Parliament, which caused him to doubt how to dispose of his Sonne whom he had designed for the Ministrey: wherein also are comprised some Animadversions upon a late little pamphlet called, *The Countryes plea against Tithes*, discovering the ignorant mistakings of the Authors of it, touching the maintenance of the Ministery.

*Sir*,

THough it were high presumption for a private man, as I am, to presage what so wise a Senate as the Parliament will doe for the future, either in point of Tithes, or any other affaire of so publike concernment, yet I hope I may, without reaching above my line, take upon me to tell you, that the ground of your doubt touching their alienation of Tithes from the Ministery, (which I shall bring in its proper place) is but such as will serve rather to beare up a transient suspicion or surmise of such a matter, then a settled assurance that it either is so already, or that hereafter it will be so. For the first, *That it is not so*, I am sure; because,

1. They have passed an Ordinance for the Ministers recovery of Tithes, and other Ministeriall dues from such as doe detaine them, November 8. 1644. which is still in force, through the influence of their power and favour.

2. They have made competent additions to very many livings out of impropriated Tithes in the hands of Delinquents; and this they have done with so much cheerefulnesse, and beneficence on the Ministers behalfe, by the Committee for plundred Ministers, that many have cause to blesse God for them as their great Patrons, and benefactors for that manner of maintenance; wherein they have done beyond and above any Parliament that were

before them, and they continue and perſiſt in the making of ſuch augmentations, as occaſion is offered, to this very day.

3. They have given the repulſe to divers petitions againſt Tithes, which by the inſtinct and inſtigation of men of unſound principles and unquiet ſpirits have been put up unto them.

For the ſecond, that they will not take them away in time to come, I have theſe grounds, if not of infallible certainty, yet of very great probability.

Though they have reſolved upon the ſale of Biſhops lands and revenues, in their Ordinance of November 16. 1646. for that purpoſe, they have made an eſpeciall exception with reſpect to the maiutenance of Miniſters in theſe words, *Except parſonages appropriate, tithes, tithes appropriate, oblations, obventions, portions of tithes, parſonages, vicarages, Churches, Chappels, advowſons, donatives, nomination, rights of patronage and preſentation.*

In excepting the right of patronage, they meane neither to leave it to the power of the people to chooſe what Miniſter they pleaſe, (and the practice of the Honourable Committee for plundred Miniſters ſheweth the ſame, for they appoint and place Miniſters very often without the petitions of the people, and ſometimes againſt them, as their wiſedome ſeeth cauſe; and if it were not ſo, many would chooſe ſuch as deſerved to be put out againe.) Nor to put the Miniſters upon the voluntary penſions, or contributions of the people for their ſubſiſtence, but aſſigne them under ſuch a title what belongeth unto them by the Laws of the Land, *viz.* Tithes, obventions, &c. which intimates their mind not onely for the preſent, but for the future.

Their wiſedome well knoweth that the Revenue of Tithes as it is moſt ancient for the originall of it, and moſt generall in practice, both for times and places, ſo it hath the beſt warrant from the word of God (not onely in the old Teſtament, which none can deny, but in the new, which though it be denyed by ſome, is averred by others, as D. *Carleton*, M. *Roberts*, D. *Sclater*, M. *Bagſhaw*, in their treatiſes of Tithes, and yet unrefuted by any) and from the Laws of many Chriſtian States, eſpecially from the Statutes of our Kingdome, whereof abundant evidence is given in the booke of the learned Antiquary, S^r *Henry Spelman*.

3. That notwithſtanding all the authoritythat may be pleaded for

for them, the people are backward enough to pay to their Miniſters a competent maintenance; and if Tithes ſhould be put down by the Parliament, it would be very much adoe to bring them up any other way to any reaſonable proportion of allowance for their ſupport; and ſo in moſt places the Miniſtery would be reduced to extreame poverty, and that poverty would produce contempt of their calling, and that contempt atheiſme.

4. That it is evident that ſuch as make the loudeſt noyſe againſt the tenure of Tithes, are as oppoſite to the office and calling of Miniſters as to their maintenance; and intend by their left-handed Logicke (becauſe as the ſaying is, the Benefit or Benefice is allotted to the office) to make way for the taking away of the Miniſtery, by the taking away of Tithes; and not to wait the leiſure of conſequentiall operation, (according to the craft of *Julian*, who robbed the Church of meanes, expecting the want of wages would in time bring after it a want of workmen) but preſently to beare down both, as Relatives mutually inferre one another, as well by a negative as a poſitive inference; and ſo as the Parliament having put down the office of the Prelacy, now makes ſale of their lands, they, if they could prevaile for the diſcarding of Tithes, would by the ſame argument (clamour and ſlander) preſently and importunately preſſe for depoſition of the Miniſtery. And we ſee how they take upon them with equall confidence and diligence, not onely to write, but [a] publikely to diſpute againſt them both.

5. That if rights, ſo firmely ſet upon ſo many ſolid foundations, ſhould be ſupplanted, it would much weaken the tenure or title that any man hath to his lands, or goods, and would be a ready plea for raſh innovators; and the rather, becauſe of the manner of the Anabaptiſts proceedings, who began their claime of Chriſtian liberty with a [b] relaxation *of Tithes*, and went on to take off the Interdict or reſtraint in *hunting*, *fiſhing*, and *fowling*, wherein they would allow neither Nobility, nor Gentry, any more priviledge then the meaneſt peaſant. And as their principles were looſe; ſo were their practices licentious, for they held a [c] *community of goods, and equality of eſtates*; [d] *whereupon* the *Common people gave over their worke, and whatſoever bore deſiſteret, & quâ quiſq; re careret ab aliis qui abundabant etiam invitis acciperit.* Ibid. See alſo l. 10. *princip.*

[a] *Erbury* at Oxford and *Cox* at London.

[b] Sleydan Comment. l. 5. fol. 71. a

[c] Ibid.

[d] *Bonorum quoq; communionẽ & humanitati cum primis eſſe conſentaneam, & ut ex dignitate ſunt omnes æquales, & ex conditione libere & promiſcuè omnibus bonis utuntur.* Ibid. fol. 64. *prope finem.*

[e] *Quo factum eſt, ut vulgus ab operis atq; labore*

*they wanted they tooke from the rich even against their good wills*; So that it was a breach of their Christian liberty, belike, to have a lock or a bolt on a doore, to keep a peculiar possession of any thing from them. And the liberty was more and more amplified, according to the fancies of their dreaming doctors, for their dreames were the oracles of their common people; and every day they set forth their liberty in a new edition, *corrupted and augmented*, till all the partition walls of propriety were broken down; and so not content to have other mens goods at their disposall, and to be quit from payment of rents, and debts, (having made a monopoly of Saintship to themselves) they excommunicated all who were not of their faction both out of sacred society of the Church, and out of common communion in the world as wicked and profane, and unworthy not onely of livelyhood but of life also; and usurped a power to [a] *depose Prince and other Civill Magistrates, as they pretended they had commission to kill them, and to constitute new ones in their stead as they should thinke fit.* [b] *Such seditious and sanguinary Doctors*, as *Luther* called them, *did Satan stirre up under the pretext of Euangelicall liberty*; a liberty which in them admitted of no bounds, being like the &c. oath without bankes, or bottome, of no rule or order, being carried on with a wild and giddy violence; such as the great and pernicious impostor of the world prompted them unto, though they vented their diabolicall illusions under the Title of Divine Revelations, as the Prince of darkenesse made them believe, when he put on his holy-day habit, the appearance of an Angel of light. 2 *Cor.* 11. 14.

6. That the payment of Tithes where there are the fruits of the earth, and increase of cattell, out of which they may be raised, is the most equitable way and meanes of maintaining the Minister, since such a gaine is not onely harmelesse, and without sinne, for the manner of acquisition, (which we cannot say of pensions and exhibitions made up out of trade or traffique) but such as may be most permanent and constant, since whether the Tithe be lesse or more, it is still proportionable to the other nine parts; and if the yeares be plentifull, there is the more provision for house-keeping, if scarce, that part though lesse is the more in price and worth, either for use in kind, or for exchange for

[a] *Promittebat auxilium quo viz. impius interfectis, novi substituerentur principes & Magistratus: quam à Deo sibi mandatum esse profitebatur* (*scil.* Muncerus) *ut sublatis illis constitueret novos* Ibid.

[b] *Sathanas sub Evangelii praetextu multos hoc tempore seditiosos & planè sanguinarios excitavit Doctores.* Sleydan Comment: l. 5. fol. 72. See more of their Doctrine l. 10. *principio.* and of their doings in the following discourse of the Author of the same booke.

for other commodities. Whereas a rate in money which is competent in ſome places, and at ſome times, is incompetent in others, ſuch is the change both of monies and neceſſaries bought with money. For money, the time was *when* an ounce of ſilver now at 5. s. was valued but at 20. d. So in the Act of Parliament in the third of *Edward* the firſt, *Cokes* Inſtit. part 2. p. 410. *When* 20 markes a year was enough honourably to maintaine a Student at the Innes of Court. *Forteſcue* is his Commentary on the Lawes of *England*, c. 49. p. 114. And this was held ſo great a charge as was to be borne onely by the ſonnes of Noblemen, and therefore they onely, ſaith the ſame Author, ſtudyed the Lawes in thoſe Innes, *Ibid.* And of old the Revenues fit for a Knight was rated to 20. l. a yeare, of a Baron to 400 markes a year, and of an Earle 400. l. a year: *Cokes* Inſtit. l. 2. c. 3. Sect. 95. fol. 69. and *Lindwood* in his provinciall Conſtitutions notes upon the rate of a Vicarage (for ſuch by the fraud and rapine of the ſuperior Popiſh Cleargy[a] were many times deprived of Tithes, and put to penſions) that it was to be 5 marks in *England*, but in ſome parts of *Wales* they were content with leſſe, afterwards their meanes was augmented to 8 markes a year, but ſome would not be contented with leſſe then 10 marks a year; and, indeed ſaith the Gloſſe, 5 markes was too little for Hoſpitality, and other expences; implying that 10 markes was ſufficient for all occaſions.

2 As for money, ſo for commodities to be bought with it, the prices have been very various; In the [b] Statute entituled *Aſſiſa panis & ceruiſiæ*, made Anno 51 *H.* 3. and Anno Dom. 1266. the deareſt rate for a quarter of wheate (which in the middle of the Kingdome is a meaſure containing eight times four peckes, I render it by that proportion, becauſe it is more genearally knowne) was 12. s. the cheapeſt 1. s. ſo that betwixt theſe two extreames the ordinary rate might be about 6. s. the quarter. And for other proviſions the rate ſet upon them in a dearth in the Reigne of *Edward* the ſecond was this, *for an oxe fatted with graſſe fifteene ſhillings, for one fatted with corn twenty ſhillings; the beſt cow twelve ſhillings, a fat hugge of two yeares old three ſhillings; a fat ſheep ſworne fourteen pence, With the fleece twenty pence; a fat gooſe two pence halfepenny, a fat capon two pence halfepenny, a fat henne a peny, four*

a *Vicario perpetuum ſtipendium quinq; marcarum ſtatuitur, niſi in partibus aliquibus Walliæ ubi minore contenti ſint.* Lindwood conſtitut. l. 1. *de offic. vicar.* fol. 46. p. 2 col. 2. in Textu & fol. 47. p. col. 1. *Sed in gloſ. lit. g. Augmentatio facta eſt ad 8 Marcas, ſed tamen alii qui non ſunt contenti ſine decem Marcis; & revera 5 Marcæ non ſufficiunt ad hoſpitalitatem & alia* Ibid. in gloſ. lit. g.

b See Polt Abridg. Edict. Londin. 1640. p. 11.

*four pigeons a peny, ſo that whoſoever ſold above ſhould forfeit their ware to the King.* Dan.Hiſt.l.2.p.209. And I well remember that not very many yeares agoe there was a controverſie brought before the commiſſioners of charitable uſes in Cheſhire, wherein was diſcovered the cheapneſſe of things in former times; the caſe was thus. There was a legacy of twenty markes given to the pariſh of Wood-church in that County to buy oxen to till the ground of poore men, with which ſmall ſumme at the time of the donation, (about ſevenſcore yeares before) were bought no fewer then twenty yoke of oxen; which becauſe the poore people were not able ſo to keep that they might be ſtrong to labour, it was thought fit to ſell them and to buy in their ſtead as many milch kine as the mony would reach unto, which were to be hired at a low rate to ſuch as were not able to buy ſuch cattell for themſelves. But it is yet a cheaper price we read of in *Edward* the firſt his dayes, when by *Stat. Weſtm.* an oxe was to be ſold but at 5.s. ſo in the 13th yeare of *Edward* the 1. cited in *Cokes* Inſtit. part 2.p.410. How rates are raiſed in the preſent age (whether by ſcarcity of things, or by the increaſe of people, or multiplication of coyne, or all) is not unknowne to any, and too much experimentally by many whoſe portion is too penurious for their neceſſary expences. Nor is this great difference of rates, either for money, or for goods, brought to paſſe on the ſodaine, but raiſed by degrees; ſo that if the rule of tithing ſhould be laid down, the Miniſters wages muſt be changed, as *Jacobs* was in *Labans* ſervice, many times over, which would be an intricate trouble to proportion according to ſeverall variations of perſons, and places; to which inconvenience the maintenance by Tithes is not obnoxious; nor to any other, which may be compared with ſuch as will hardly be ſeparated (if at all) from the alienation of Tithes.

That if any innovation be made in this matter, and the people be diſpleaſed with it, (as they will quickly be diſpleaſed with any thing which puts them to coſt) they will take the more boldneſſe to contemne it, becauſe it is new, and for that it neither hath, nor is like to have ſuch a ratification of authority, either divine, or humane, by conſtitution or preſcription, as tithing hath had; no, though it ſhould be ſuppoſed to laſt to the end of the world. For Tithes were paid 1933 yeares, almoſt 2000 yeares before

fore Christ; *Salian* Annal. *Tom* 1. *p.* 251. *nu.* 41. & since Christ (excepting some times of persecution) for the most part of sixteene hundred fourty sixe yeares; and we cannot hope the remaining age of the world will hold out halfe so long.

To these I could adde divers other considerations of importance, which cannot be hid from the prudence of such a multitude of sage Counsellors as that most Honourable Senate the Parliament consisteth of; which maketh me confident that before they give assent to any such petitions as are put up against Tithes, they will be pleased to heare what the Assemblie of Divines can say in answer to such objections, as are framed against them, upon pretence either of Scripture or religious reason.

## Animadversions upon the Petition of the Committee of *Kent*.

AGainst this, that which moved you to thinke the Parliament would take away Tithes, was, that you have read in one of the newes bookes, that the Knights and Gentlemen of *Kent* presented a petition to the Honourable House of Commons, against the payment of Tithes unto Ministers, and that they received thanks from the Speaker in the name of the House for that service, and that it is held fit to be a leading case for all other Counties of the Kingdome.

You must beware how you believe the newes bookes, for they are many times ignorantly and inconsiderately erroneous, or fallaciously false, out of an ill affection to some, and apparent partiality to others.

For the Petition it selfe, 1. It commeth not as from the Knights and Gentlemen of that County in common, (who I am credibly informed are not very well pleased with it) but from the Committee of *Kent*, who (if they be like the Committees in many places) are not all of them men of sound, and orthodox Judgement, neither for matter of Tithes, nor for divers other Tenets of Religion.

2. Howsoever they professe a good meaning to establish a sufficient maintenance *for godly and well deserving Ministers*; a very good meaning to extend it so farre as to succor their widowes

do wes and fatherleſſe children, as we ſee by the 8th propoſition of their new project. It will be a probleme (which the preſent age perhaps will not be able to reſolve) who the Truſties in after times will accept for ſuch Miniſters; although they may have cauſe to ſuſpect that ſome part of *Kent* for the preſent is not ſo reformed as it ſhould be; Anabaptiſts and other ſectaries having miſled many into adverſe principles, not onely to Tithes, but to other matters of moment, concerning mans duty both of the firſt and ſecond Table.

3. For their exceptions againſt the received maintenance by Tithes they ſay firſt, in generall, *That they bewayle the ſad condition of the Country, in reſpect of the uncertaine floting, and miſerable condition of the Miniſtry, occaſioned by the very nature, manner, and adjuncts of the way of Tithes; which the experience of thus many ages doth plainly evince to be miſerably attended with theſe enſuing miſchiefes.*

To which I anſwer;

That the miſerable and floting condition of the Miniſtry proceeds not from the nature, manner or adjuncts of their ſubſiſtence by way of Tithes; nor doth the experience of thus many ages (that is, of the precedent ages hitherto) evince ſo much; for God (who is omniſcient, and therefore cannot but foreſee all ſubſequent inconveniences for many hundred yeares to come) eſtabliſhed that meanes to be a ſtanding and ſettled maintenance for his ſervice; and the miſery of the Miniſtry proceeds not from the nature or manner of Tithes (which to affirme may ſeem to coaſt too neere their conceipt who imagine God to be the author of ſinne) but from the ill conſciences of men, who make no ſcruple to rob God of his right, *Malach.* 3. (for Tithes are his portion, *Levit.* 27. 30.) and Miniſters may ſuffer very much in the preſent age, becauſe there be many Anabaptiſticall ſectaries (from which *Kent* is not more free, but as ſome ſay, more infected then ſome other Counties) who take up importunate clamours againſt Tithes as Antichriſtian and Jewiſh; and there will be the more by the countenance they may have from ſuch a petition; and ſuch petitioners, becauſe divers of them are of good reputation, not onely for wealth, but for their wiſedome and learning well affected to Religion and the Parliament; and I beleeve it the

rather

rather, becauſe ſome godly miniſters have expreſſed their approbation both of it & them, though therein I conceive they ſhewed more of the ſimplicity of the dove then of the wiſedome of the ſerpent; for albeit their meaning might be ſo to gather the Tithes, and to put them into ſuch hands, as might be rather for the Miniſters eaſe then for their loſſe, no man can propheſie that ſo good a ſpirit will deſcend upon their ſucceſſors, nor how croſſe they may prove to ſuch a Chriſtian Intention.

2. For the particular exceptions, they ſay; firſt, *That for the nature of this ſubſiſtence it is a very myſtery, and ſecret, not eaſily without much art and induſtry attained unto; namely for the Miniſter to know his dues demandable, or the pariſhioners their dues payable; whence ariſeth that multitude of ſcandalous and vexatious ſuites and brables betwixt Miniſters and people, which doth fill all the Courts at Weſtminſter, and other the Juſtice-ſittings in the Country likewiſe with cauſes in this kinde.* *Petit.*

In this charge there be two particulars contained, firſt, of the difficulty of knowing the right of Tithes; ſecondly, of the vexatious ſuites raiſed betwixt paſtors and people upon that ground.

For the firſt, It is a very ſtrange myſtery, that after ſo many hundred yeares of Tithing it ſhould not yet be knowne what it is; but I doubt not but in this caſe the right is better knowne unto Miniſters that ſhould receive Tithes, then acknowledged by the people that ought to pay them; And how can they ſet up their new deſigne upon the old foundation of Tithing, as they project it, if it cannot be knowne what is the Miniſters demandable due, what the peoples payable duty: that modell is more like to be a myſtery which they propound, ſince it was never heard of in this Kingdome untill they had deviſed it; and as like it is to prove a miſery to Miniſters, if their portion ſhould come into no better hands then moſt of theirs, who have petitioned againſt Tithes ſince this Seſſion of the Parliament.

And ſecondly, for the multitude of ſcandalous and vexatious ſuites, they make no more againſt the Right of Tithes, then againſt borrowing and lending, buying and ſelling, letting of leaſes, ſetling inheritances, Joyntures, &c. upon which titles are ſet the greateſt number of ſuites; and for ſuites for Tithes

if the law allow them a right, it alloweth them a remedy to recover that right; and for the ſuites that were occaſioned thereby, they are neither ſo many as is here preſented, nor ſo ſcandalous for the Miniſters part, for they may be imputed to the old avarice of worldly minded men, who being of a contrary mind to the Apoſtle, thinke it an hard bargaine *to exchange their carnall for the Miniſters ſpirituall things*; but principally to the new principles and practiſes of ſuch unreaſonable reformers, as imagine they are never farre enough removed from one extreame untill they arrive at the other, accounting all ſuperſtitious in point of Tithing, that are not ſacrilegious.

*Petit.* 2. *For the manner of it, reſpecting either the collecting or payment of Tithes, it is a mutuall ſcourge in the hand of Miniſters and people each to other, if either or both (as too often it happens) prove covetous or croſſe.*

*Anſw.* If it be a mutuall ſcourge, it would well become the wiſedome of theſe Committee-men to enquire where the right is, and who doth the wrong, and to project a way how the wrongdoer may be made to doe right and to give due ſatisfaction to ſuch as ſuffer under an undeſerved ſcourge, and I hope when our reformation is grown up to ſuch a competent degree of ſtrength and ſtature as that it may quit the ſervice of Country Committees, there will be no more cauſe of ſuch a complaint then for many hundred yeares heretofore there hath been.

*Petit.* 3. *For its adjuncts (that is of the maintenance by Tithes) the miſchiefes of them will appeare innumerable, if the pregnancy of onely one be but conſidered; namely, in the unreaſonable proportion of livings, or values of Churches to which they are belonging, whence ariſe theſe inſeparable evils.*

*Anſw.* By what new-found Logick will you frame ſuch an Induction, as from one particular to inferre innumerable miſchiefes, particularly from the diſproportion of livings? You ſeeme to thinke otherwiſe, where you ſay in your 8th propoſition, *that in the diſtribution of the revenues for Miniſters regard muſt be had to the deſert of the perſon, his family, and charge*; if ſo, certainly there is a great diſproportion in deſerts; and for charge it is conſiderable, not onely for the greatneſſe of a Miniſters family, but for the dearneſſe of his education; ſome have ſpent

ſpent many yeares, and a large patrimony in the Univerſity, to make them fit for the Miniſtery; and ſhould not they be ſupplied with a more liberall allowance (*cæteris paribus*) then thoſe who have been at little expence both of time & eſtate to be duely qualified for ſuch a calling? If the proportion of parts, and paines, of charge both Academicall, and Oeconomicall, be duely weighed, there will be many more livings found too little then too great for a Miniſters maintenance; eſpecially if you will allow him a Library (ſuch as a learned Knight thought neceſſary for a Miniſter) of 600. l. value. But if the proportion be unreaſonable, muſt Tithes be ſupplanted and their ancient Tenure aboliſhed for ſuch a diſproportion? muſt the foundation be digged up becauſe the building is too high? may not a tree, whoſe branches are too luxuriant, be lopped, and left entire in the bodie and roote? when a mans beard is too long, will you cut off his chinne? that out of doubt were an unreaſonable reformation.

4. From this unreaſonable proportion, you ſay, ariſe theſe unſeparable evils. 1 *That moſt unworthy perſons, who by favour or friendſhip or any ſiniſter Wayes can get into the greateſt livings, being once inveſted with a legall right of freehold for their lives, ſecurely fleece the flocke, and feed themſelves without feare or care, more then to keep themſelves without the compaſſe of a ſequeſtration, whilſt others both painfull and conſcionable both ſerve ſtarve.* *Petit.*

This is not (as you call it) an unſeparable evill from the proportion you ſpeake of; for there be ſome men who have had, and at this preſent have great livings, not by any ſiniſter wayes, but by ſuch favour and friendſhip as is ingenuous, and juſt, and who keep as great a diſtance from deſert of ſequeſtration as any Committee man doth within the County wherein they live. And if they carry themſelves ſo as to be without feare and care, and without the compaſſe of a ſequeſtration, in theſe inquiſitive and accuſative times, they are more to be countenanced and encouraged then many of thoſe who are profeſſed adverſaries to them. But the matter, it ſeemes, that troubles you is, that *they are inveſted with a legall right of freehold for their lives*, and if they have ſuch a right, and walke ſo warily as to keep out of the reach of a ~~juſt~~ ſequeſtration, why ſhould they not enjoy *Anſw.*

it? would you have all to be betruſted to the diſcretion and conſcience of your arbitrary Committees? Truely Gentelemen, we are afraid to truſt you ſo farre, as to give up ſuch a certaine title as formerly and anciently eſtabliſhed upon the Incumbent by the fundamentall Lawes of the Land, as the right of any perſon to his Temporall eſtate, and to ſtand to your arbitrary diſpenſations for our livelihood; leſt *Laban*-like you ſhould change our *wages ten times*: and if your petition ſhould take place, it might prove of very ill conſequence in another generation, were you never ſo well minded, and it may be ſooner (in the next ſucceſſion:) for if the Truſtees ſhould be either proud or covetous, or prophane or licentious, hereticall, or ſchiſmaticall, the beſt Miniſters might happily be the worſt dealt withall; and the right of receiving Tithes taken out of their hands might put them into the paſſive condition of ſilly and impotent wards under ſubtill and domineering *Tutors* or *Guardians*, in name *ſuch*, but indeed nothing leſſe then aſſertors and defenders of their rights, as Tutors and Guardians ought to be. And that our feare and jealouſie is not without cauſe in reſpect of Truſtees and Committeemen, nor ſo much of you in particular, of ſome of whom we have heard and beleeve much good, as of ſuch as may have as great authority without ſo good an intention, we ſhall give you our ground out of the obſervation and complaint of witneſſes above exception, *viz.* the *well affected freemen and covenant-engaged Citizens of the City of* London, *in their humble repreſentation to the right Honourable the Lords and Commons in Parliament aſſembled*, in theſe words. *And here We may not omit to hint unto your Honours the exorbitant practiſes of many Committees and Committee-men, who have ſuch an influence by meanes of their authority upon the people, they being at their Wills and in their power to doe them a diſpleaſure, that they dare not doe otherwiſe, then obey their unlawfull commands, without the inevitable hazard of their peace and ſafety; through which meanes tyranny is exerciſed by one fellow-ſubject upon another, and juſtice and equity cannot enter. The cryes of all ſorts of people through the land are growne ſo loud againſt the people of this vocation and profeſſion, by reaſon of theſe grievous oppreſſions that are continually acted by them, that in tenderneſſe of affection toward our brethren, not being ignorant or inſenſible*

*ſible of our owne ſufferings in this kind, and the great diſhonour accrewing to the Parliament thereby, that we cannot but be earneſt ſuiters to your mercy and juſtice that ſuch may be diſſolved.*

2. *For obtainment of theſe livings we ſee ſuch ſordid compliances with ſuch perſons as have the fatteſt benefices (as they count and call them) in their diſpoſe; ſuch artifices in contriving, making, and colouring over Simoniacall and ſinfull bargaines, compacts, and matches, ſuch chopping of Churches, and reſtleſſe change of places, till they get into the eaſieſt and warmeſt: and other ſuch like practiſes not to be named, nor yet to be prevented or removed, otherwiſe then by plucking up the very roote which naturally brancheth out it ſelfe into theſe foreſaid miſchiefes, ſo obſtructive and deſtructive to all reformation.* Petit.

Here is a great deale of aggravating rhetoricke againſt the greatneſſe of Church-livings. But why ſhould all this evill be imagined rather of Miniſters fat benefices as you ſay they are called, then of great and gainfull offices in the State? Is there not more care had, and more ſtrict triall taken of Miniſters ſincerity and integrity then of ſecular officers? ſurely we are bound in charity to expect a more reformed Miniſtery, then we have had, who will rather ſay unto a Simoniacall patron as *Peter* to *Simon Magus*, *Thy monie periſh with thee*, *Acts* 8. 20. then be *Levies* to ſuch a *Simeon* in making a baſe and corrupt contract for a benefice. And for that you ſay, that *ſuch practiſes are not to be prevented or removed, otherwiſe then by plucking up the very roote, which naturally brancheth it ſelfe out into theſe foreſaid miſchiefes, ſo obſtructive and deſtructive to all religion.* Whether you meane Tithes to be this roote, or the diſproportion of Benefices, or the right of patronage and protection, I cannot tell, but ſure I am, that the Apoſtle cals *covetouſneſſe the root of all evill*, and ſo the root of that evill which ſometimes paſſeth betwixt a Patron and his Chaplaine: and may as frequently, and with as much injury be found betwixt ſome Committee-men and Truſtees and the Miniſters of their choice, as any other. But as I am confident that there will be an amendment on the Miniſters part, by the regular way of the Parliaments reformation, according to the directions of ordination of Miniſters already printed & accordingly practiſed, ſo will it bee not onely poſſible, but eaſie for the State to finde out Anſw.

a fit means to prevent prevarication on the part of the Patron; but if Tithes be removed from their ancient foundation, and leſt looſe to the diſpoſall of Truſtees or Committee-men, they will be a more ready prey for the covetous into whoſe hands they may come, and from whoſe hands perhaps they cannot without great difficulty be redeemed.

Laſtly, in the cloſe of this Petition, the Petitioners ſhew great care that the Miniſters may be freed from the incumbrance of Tithes, *to ſerve the Lord without diſtraction, and to give themſelves to the Word of God and Prayer, and to be onely employed to make ready a people prepared for the Lord*; And ſo they may do if they be maintained by Tithes; for that means of maintenance gives a man occaſion of more and better acquaintance with the particular diſpoſition of his people, and it is his part to *be diligent to know the ſtate of his flock*, *Prov.*27.23. And for that trouble which may be thought inconſiſtent with the Calling of a Miniſter, if his means be ſufficient, he may have a ſervant to take it from him, and eaſe him of it. I know a Miniſter whoſe Benefice was a Vicarage, and his Pariſh ſo large, that it was 11 miles in length, and of a proportionable breadth, yet did it not put him to the expence of one day in a year to compound for, or gather in his diſperſed portion.

Now for the ſucceſſe and acceptance of the Petition in the Honourable Houſe of Commons, to which it was preſented; if ſuch an innovation had been granted for that County, it had been fitter to have been made a *Sibboleth*, for that *cauthe* or angle of the Kingdome (for ſo the word *Kent* ſignifieth) as their cuſtome of * *Gavelkind*, then to be made a preſident or pattern of conformity to other parts of the Kingdome, as the Newſ-Book of the ſame week preſcribed that to his Reader.

But the anſwer of the worthy Senate was ſuch as may further confirm us in our confidence, that they will ſtill continue to be gracious Patrons of the maintenance of Miniſters, and that they will be more ready to ratifie precedent Statutes and their

* *Gavelkind* is a cuſtome anciently obſerved in *Kent*, whereby the land of the father is equally divided among all his ſons, or the land of a brother equally divided among his brethren, if he have no iſſue of his own, this was ſo common a cuſtome as appears by the Stat. in the 18. year of *H. 6. ca.* 1. that there were not above 30 or 40 perſons in *Kent* that held by any other tenure; but *Anno* 31 *H.*8. *ca.* 3. many Gentlemen upon Petition got an alteration thereof.

own

own Ordinance made in that behalf, then to diſſettle their tenure which is founded upon them, and to make Miniſters arbitrary Penſioners to ſuch as may be ſo far ſwayed by miſpriſion of judgement, or perſonall diſ-affection, as to deal moſt penuriouſly with thoſe, who being truly valued (without erroneous miſtaking or injurious miſliking) may both by the eminence of their parts, and their faithfulneſſe in their places, deſerve the moſt ample, and moſt honourable Revenue. I will give you their anſwer in their own words, which are moſt authentick, they are theſe.

M. *Speaker by order of the Houſe of Commons did give the Petitioners* (*the Committee of* Kent) *thanks for their former ſervices, and took notice of their good affections to the Publique; and did acquaint them, That the great buſineſſes of the Kingdome are now inſtant and preſſing upon them, and that they will take the Petition into conſideration in due time, and that in the mean time they take care that Tithes may be paid according to Law.*

But there are ſome in the Parliament that hold the maintenance of Miniſters by Tithes to be Jewiſh and Popiſh, and therefore they will give countenance to Petitions that are put up againſt them, and doe what they can under ſuch titles to render them offenſive to ſuch as are truly religious, eſpecially to thoſe who have moſt power to aboliſh them. *Object.*

1. It may be there are ſome ſuch, and if there be ſome ſuch among ſo many, it is neither to be thought ſtrange, nor true, for ſuch a number of them as may be able to carry the cauſe againſt the continuance of Tithes. *Anſw.*

2. For the tearm Jewiſh, it is miſ-applyed againſt Tithes, as it was by the Prelates of late, & is by the Anabaptiſts at the preſent againſt the Sabbath; nor are they more Popiſh then Jewiſh; For the Papiſts, though their people pay them, and their Prieſts receive them, yet they for the moſt part holding thē to dēpend meerly upon Eccleſiaſtical conſtitution, made no ſcruple of changing them into ſecular titles or uſes, as in Impropriations in the hands of Lay-men, and many other diſtributions made out of them ſeverall ways, without any reſpect to the ſervice of the Sanctuary. Nor is there any thing in the payment and receiving of Tithes under the ſtate of the Goſpel, which may probably

bably be suspected to have any savour of Judaisme, or Popery, save onely the payment of Tenths by the Ministers to the King, as hath been lately well observed by Mr *L.* in his second Book against Mr *S.* I will set down his words, and seriously commend them to the consideration of our religious Reformers; they are these, in answer to Mr *S.* his Question.

Qu. *What* [a] *are the maintenance of Ministers by Tithes? Jewish and Popish undenyably.*

Ans. *How? Jewish and Popish undeniably? As undeniably as the Sabbath was Jewish when the Prelates so called it, or the article of the Trinity Popish, as* [b] Valentinus Gentilis *took it, when he disliked the doctrine of the Reformed Churches in that point, because they agreed with the Papists therein. You are grossely mistaken Sir in the tenure of Tithes, for though there be a clamour taken up against them by such as make no scruple either of slander or of sacriledge, and some would change the Ministers portion, which is their masters wages for his own work, and reduce them to voluntary pensions of the people, (because they would have a liberty to begger them who will not humour them in their fond and false opinions, and licentious practises, but oppose them as of conscience they are bound to doe) neither you, nor all your party can prove them either Iewish or Popish, as they are allowed and received for the maintenance of the Ministers of* England. *And because you are so confident in your opinion against Tithes, and shew your self to have a good opinion of* Mr Nye, (*whom with* Mr Goodwin [c] *you cite for a worthy saying touching the golden Ball of Government*) *I refer you for satisfaction to him, who will tell you* (*as he hath done divers others in my hearing*) *that Ministers of the Gospel may hold, and receive Tithes for their maintenance by a right and title which is neither Jewish nor Popish, but truly Christian; and there is nothing Iewish or Popish in Tithes, but the assignation of the* decimæ decimarum, *from the* [d] *Leviticall Priests to the high Priest, from the high Priest to the* [e] *Pope, and from the Pope to the King; when first Pope* Urbane *gave them to* Richard *the second to aid him against* Charles *the French King, and others that upheld* Clement *the seventh against him, as* [f] Polydore Virgil *relateth. And King* Henry *the eighth taking from the Pope the title of head of the Church to himself by* [g] *Act of Parliament, took from*

[a] *Smoke p.25.*
[b] *Quod Ecclesiæ reformatæ adhuc in fide Tinitatis cum Papistis conconveniret. Bell. præfat. in lib. de Christo, Tom. 1. secund Controvers. general. p.271.*
[c] *Smoke p.14.*
[d] *Numb.18 28*
[e] *In veteri lege primitiæ debebantur sacerdotibus, decimæ autem Levitis, & quia sub sacerdotibus Levitæ erant, Dominus mandavit ut ipsi loco decimarum solverent summo sacerdoti decimam decimæ, unde nunc eadem ratione tenentur Clerici summo pontifici decimam dare & exigeret. Aquin. 22.q.87. a.4.ad 3. Soto 9.Inst. q.1. art.4.ad.3. Cajetan. in Num. 28.p.687. Polyd. Virg. l.16. to 26 H.8. Poult. Antig.p.561.*

*from him the tenths, and other profits annexed to that title, which were ſetled upon the Crown by* [h] *Statute in the 26th year of* Henry *the 8. ſo that the Iewiſh high Prieſthood being expired, the papall Lordſhip aboliſhed, the Tithes paid under thoſe titles, may be called Iewiſh and Popiſh, but not that which is aſſigned for the maintenance of Miniſters, becauſe they are yet to doe ſervice to their Maſter, and ſo to receive the maintenance of his allowance for his work; which fellow-ſervants cannot take upon them to take away without preſumption; their door-neighbour will not allow them a power to appoint the wages of their ſervants, much leſſe may they uſurp upon the right of God, and his Miniſters, to alienate tithes from the ſupport of his ſervice and worſhip, for that is rather Popiſh, as hath before been obſerved.*

[h] *Ibid. c. 2. p.* 565.

Which being true and clear, (as touching the pedegree of ſuch Tithes from the high Prieſthood of *Aaron* to the Independent Prelacy of the Pope, and from him to the King, as by claim from the title, *Head of the Church*, tranſlated from the Miter to the Crown) it will not I conceive be thought congruous to the Chriſtian Reformation (the thorow Reformation profeſſed by our worthy and religious Rulers) that ſuch Monuments of Superſtition or Popery ſhould be removed, which were unprofitable, and that onely retained (as a ſilver ſhrine to *Diana*) which brings gain to the King or State, and puts the charge upon the Miniſters of the Goſpel; who thereby (I may ſay it confidently for ſome whom I know) are brought to this perplexed *Dilemma*, either to pay them with reluctancy, (as no leſſe contrary to their conſciences then to their commodities) or to deny or withhold them with ſuſpition, or imputation of avarice, or diſobedience to lawfull Authority.

*Obj.* But the Parliament liketh not that Tithes ſhould be propoſed, or preſſed, as many Divines doe, both in Pulpit, and from the Preſſe, as of divine right; which becauſe they think to be wrong, they will rather reject them, then ratifie them under a title of ſo high a ſtrain.

*Anſw.* 1. Not onely Divines, but divers [i] others (who are men of very eminent note) hold Tithes to be due by divine right, and ſome of them have undertaken to prove them ſo, and to anſwer all objections againſt them, which how far they have performed is

[i] Sir *Ed. Coke* in his ſecond Report in the Archb: of Can. his caſe. *f.* 49. *b.* And ſo the Authour of the foregoing learned Work.

is left to the judgement of indifferent Readers.

2. It is more like that (as both religion and reaſon will dictate unto them) they will be the more wary how they take them away, leſt if that tenure ſhould prove true, they ſhould be found guilty of the ſin of ſacriledge, that they ſhould aboliſh them, and that they will ſeriouſly ſearch and enquire into the ground of that title, and while they are in doubt, that they will reſolve of the ſafeſt courſe, which is, not to repeal them; for as we muſt forbear to feed of meats of which another ſaith, that they are *ſacrificed to idols*, 2 *Cor.* 10.28. (for his ſake that ſaith it, though but a private Chriſtian;) ſo if Divines ſay, (and bring Scripture and reaſon for it) that Tithes are dedicated to God, or by him aſſumed, firſt to himſelf, and then aſſigned or ſet over by him to his ſervants, for his work in waiting on his worſhip, which muſt be maintained to the worlds end, it will be rather a reaſon for them to ſupport the tenure of Tithes by their Parliamentary power, then any way to prompt or diſpoſe them to deſert it, or to alienate their right from Eccleſiaſticall uſes.

The fear of ſacriledge hath been of ſuch force with ſome heathen Moraliſts, as *Plutarch* obſerveth in his Morals, that if they pulled down a houſe contiguous to a temple, they would leave ſome of that part ſtanding which was next unto it, leſt they ſhould with it take away any part of the Temple it ſelfe. Wherein if they ſhewed any ſpice of ſuperſtition, it will be more capable of pardon, or leſſe liable to puniſhment at the hand of God, then we may expect if we proceed haſtily to lay violent hands upon any thing peculiarly entituled to his honour, who is the authour and giver of all things to all men.

2. If the plea of a divine right for Tithes (ſuppoſing it ſetteth them up too high) ſhould incline to irritation in ſome to make oppoſition againſt them, why ſhould not the contrary tenet which peremptorily taketh them down too low, calling them Jewiſh, Antichriſtian, and Popiſh, and that undeniably, (as hath been ſaid, but never can be proved) move others the rather to retaine them, and confirm them? chiefly the Parliament (whoſe authority is moſt engaged for their juſtification) and eſpecially ſince the ſervants of God have had poſſeſſion of them by ſo many laws, and ſo long a preſcription; for according to

the

the maxime of the law, *the poſſeſſors title is the beſt untill he bee fairly evicted out of it.*

*Longa poſſeſſio (ſicut jus) parit jus poſſidendi & tollit actionem vero domino.* Bract. l. 2. fo. 52.

3. If the Parliament doe not in their approbation of Tithes come up to the tenure of divine right, they may yet be willing enough to eſtabliſh them upon other grounds, and leave Divines to the liberty of their judgment & conſciences to plead for them according to the principles of their own profeſſion, as in their Ordinances made for ſetting up of the Presbyterial Government, though yet they be not ſatisfied of the claim of divine right for it, they were pleaſed to authorize it by their Ordinance, and to require Divines to prepare the people for the reception thereof by preaching of it, and for it; ſo as both to clear it, and aſſure it (ſo farre as they could) by the ſacred Scripture.

And on the other ſide while they approve it, though but by a civill aſſent, (as to a prudentiall deſign, untill they ſee more light, which they look for in the Anſwer to their Queres propoſed to the Aſſembly of Divines) the Presbyterians who hold it in the higheſt eſteem take none offence that they proceed no farther, and profeſſe themſelves well ſatisfied with their civill ſanction; ſo one of the learned Commiſſioners of *Scotland* hath ſaid, in the name of the reſt, in theſe words, *If they ſhall in a Parliamentary and Legiſlative way eſtabliſh that thing, which is really, and in it ſelf agreeable to the Word of God, though they doe not declare it to be the Will of Ieſus Chriſt, they are ſatisfied.*

M. *Gilleſpie* his brotherly examination of M. *Colemans* Serm. *p.* 32, 33.

*Ob.* If there were no purpoſe to put down Tithes by ſuch as are in Authority, how commeth it to paſſe that the Anabaptiſts are more bold in *London* to take up a publique conteſtation againſt them, then the Presbyterians to make apology for them? for did not one Mr *B. C.* an Anabaptiſt manage a diſpute againſt Mr *W. I.* of Chr. and after that undertake another upon the ſame argument againſt M. *I. Cr.* and offered to proceed in it againſt all oppoſition, which M. *Cr.* durſt not doe, upon pretence of a prohibition from authority?

*Anſ.* 1. It is no ſtrange thing for men who have a bad cauſe to ſet a good face on it, and to make out with boldneſſe and confidence what is wanting in truth of judgement, and ſtrength of argument; this is obſerved of the Papiſts by a judicious Authour, whom he ſheweth to have been forward in the *offers of diſputa-*

Sir *Ed: Sands Europ. Specul. p.* 85.

*ſputation, with iterated and importunate ſuits for publique audience and judgement.* And *Bellarmine* reporteth out of *Surius*, that *Io: Cochleus* a great Zealot for the Papacy, offered *to diſpute with any Lutheran upon perill of his life, if he fayled in the proof of his part of the Queſtion.*

*Obtulit ſe ad diſputandum cum quovis Lutherano ſub pœna capitis ſi in probationibus defeciſſet.* Bell. de Eccleſ. Script. p. 423.

2. For the boldneſſe of the Anabaptiſts at this time, and in this Cauſe, and this City, there may be divers conjectural reaſons in particular given thereof, beſides the generall already obſerved; as,

1. Becauſe they advance in their hopes of a toleration of their Sect; and to promote that hope they have been ſo ready to engage in military ſervice, with a deſigne no doubt to get that liberty by force (if they be able) which by favour of authority they cannot obtain.

2. For this matter of Tithes, they might be more forward to oppoſe their tenure, becauſe it is a very popular and plauſible argument, wherein they might have the good wils of the people, that they might prevail, and their conceits that they did ſo, (though they did not) becauſe they would *be very apt to beleeve what they vehemently deſire may come to paſſe*; and it is not to be doubted but a dram of ſeeming probability will prevail more with moſt worldlings to ſpare their purſes, then an ounce of ſound reaſon to put them to charges.

*Quod valdè volumus facilè credimus.*

3. They might take ſome encouragement to diſpute againſt Tithes in this City, becauſe there is a project to change the maintenance of the Miniſters ſet on foot by many worthy, and well-minded Citizens, which yet in truth makes nothing for the Anabaptiſts opinion, who would have Miniſters maintained by meer benevolence; for the Citizens, as they intend a more liberall allowance then the former, (ſince they ſee many of their Churches are deſtitute of Miniſters, becauſe their Miniſters have been deſtitute of means) ſo they mean that it ſhall be certain, ſetled by Authority, and not left arbitrary to the courteſie of men.

3. For the two diſputes, the one managed betwixt M. *W. I.* and M. *B. C.* the other purpoſed betwixt M. *I. Cr.* and the ſame *B. C.* but diſappointed, it makes nothing at all for the taking away of Tithes; For as touching the former, they who were

not

not poſſeſſed with prejudice, or corrupted with covetouſneſſe againſt the truth, were much confirmed in the lawfulneſſe of ſuch rates as are paid in *London* under the title of Tithes, though indeed they are not Tithes, and of ſuch onely was the debate at that time.

For the intended debate which was to be touching the divine right of Tithes, though ſome godly and prudent men thought it ſhould not have been taken in hand without the warrant of publique authority, yet they made no doubt but that the truth of the cauſe, or ability of the man, who undertook the defence of it againſt M. *C.* would prevail unto victory. But for the diſappointment, it was by the warrant of the Lord Major of the City, to them both, interdicting the diſpute, which was both without M. *I. Cr.* his knowledge, and againſt his good will; yet he obeyed the prohibition, and when his Antagoniſt inſiſted, and urged the performance of what was agreed upon, notwithſtanding the contrary command of the Lord Major, his anſwer was, that it was agreeable to the Anabaptiſts principles to diſobey Authority, but not according to the principles of Presbyterians. And leſt *B.C.* ſhould take it for a token of diſtruſt in his cauſe, and make it an occaſion of vain-glory, either againſt the cauſe or perſon of M. *I. Cr.* he propoſed the printing of M. *B.C.* his arguments againſt Tithes, and engaged himſelf to anſwer them in print, and ſo to refer both to the judgment of al unbyaſſed Readers, which was the beſt way to give clear and full ſatisfaction to ſuch as doubt on which ſide the truth is ſwayed by the moſt authentick teſtimony and ſoundeſt reaſons.

It is no part of my task for the preſent to argue farther for Tithes, then may anſwer the doubt you have propoſed to me, which is, of the Parliaments purpoſe and proceedings touching the eſtabliſhing, or aboliſhing of them.

## *Animadverſions upon the late Pamphlet intituled,* The Countreys plea againſt Tithes.

YEt that you may not be ſcrupled in conſcience (as you were in conceit) by a new petty Pamphlet againſt payment of Tithes, which perhaps may come to your hands; I will give

you some animadversions upon it; which may also be of use to others as well as to you. The title of the Booke is, *The Countryes plea against Tithes*, with this addition, *A Declaration sent to divers eminent Ministers in severall parishes of this Kingdome, proving by Gods Word and morall reason, that Tithes are not due to the Ministers of the Gospell; and that the Law for Tithes was a Leviticall Law, and to endure no longer then the Leviticall Priesthood did, &c.*

Wherein the Authors say much in the outside, but make no answerable proof in the inside of the Booke. They direct it in the Title page as *a Declaration to divers worthy Ministers in the Kingdome*, and in the beginning of the body of the Book they present it as *a joynt Declaration of the people of severall parishes for their opinion concerning Tithes*, as a Reply *to certaine papers from some Ministers, pretending to prove Tithes due by authority of Scripture*. It had been faire dealing if they had printed those papers of the Ministers, that it might appeare how well they had answered them.

But for the confident contradiction of the Divine right they alledge,

1. The novelty of them in the Christian state.
2. The ceremoniality of them, as being meerely Leviticall.
3. The inequality of them in severall respects.
4. The trouble of them to the Minister.

For the first; they referre the *originall* of them under the Gospell, for the author, to Pope *Vrbane*; for the time, to the three hundredth yeare after Christs ascension; and for proofe of both, they cite *Origen*, *Cyprian*, and *Gregory*, at large without any particular quotation to find what they cite: *untill which time*, say they, *there was community of all things among Christians*.

But first, they should tell us which *Vrban* it was, (who they say began to bring Tithes into use for the maintenance of the Ministery) for there were 8 of that Name, and of those 8 (if *Origen* be a witnesse of it) it must be *Vrban* the first, Anno 227 who sate but 6 yeares, & 7 moneths, & there was not another Pope called *Vrban* untill the year 1087. which was long after the latest of those three, *viz.* *Gregory*, (whether they mean *Greg. Nazianz.* or *Greg. Nyssen*, or *Gregory* surnamed,) the *Great*, Bishop of Rome; and *Origen* testified so much of Tithes recalled by Pope *Vrban*,

if their

their originall muſt be ancienter then 300 years after the aſcenſion; for that *Vrban* lived not beyond the year 234, and *Origen* flouriſhed Anno 226. and if Tithes began when Chriſtians gave over the community of goods, as theſe men ſay p. 2. in the name of *Tertullian*, but bring no proofe of it, then had Miniſters a propriety in Tithes as ſoon as others had a propietyof eſtate; and ſooner it could not be. And that which cauſed this community, the perſecution of the Church (which reached to his age: for the next predeceſſor to that *Vrban*, *Calixtus* was a Martyr) might very well cauſe a ſuſpenſion of Tithes for all that time.

Tom. 1. Concil. p. 104.

2. *For the tenure of Tithes*; there be 3 diſputable opinions: 1 Whether they be Morall; 2 whether Judiciall; 3 whether Ceremoniall, (there is a fourth conceipt that they are meere Almes, which is imputed to *Wickleff* in the 8 ſeſſion of the councell of Conſtance; but that admits of no diſpute ſince it is repugnant to all appearance of reaſon.) 1 Some hold them Morall, as thoſe Miniſters whom theſe men pretend to anſwer; moſt of the *Canoniſts*, *Marc. Anton. de Dom. de Rep. Eccl. l. 9. c. 2. Zepperus* in *Explic. legum forenſ. Moſ. c.* 10. and many Engliſh Divines.

*Decimæ ſunt pura eleemoſyna, & parochiani poſſunt propter peccata ſuorum prælatorum, ad libitum ſuum auferre eas.* Concil. Conſtant. Seſſion. 8. Tom. 7. Concil. p. 1016. col. 2. Artic. 18.

2. Some hold them Judiciall, as *Bell. lib de Cler. c.* 25.

3. Some Ceremoniall, as theſe pariſhioners doe. There is the leaſt reaſon for this laſt opinion. For Tithes were taken as a tribute by God himſelfe as the chiefe Lord of all the earth, *Levit.* 27. 30. whereby hee is acknowledged giver of all; and that it is in his power to curſe the earth with barrenneſſe, and to ſtarve the creatures that live upon it; and this is true of all ages, and therefore we reade of payment of Tithes by *Abraham*, *Gen.* 14. 2. *Heb.* 7. 4. and vowing of Tithes by *Jacob*, before the Leviticall Prieſthood was eſtabliſhed, *Gen.* 28, 22.

But ſacrifices, ſay they, are ancienter then Tithes, and were long before the Ceremoniall Law was ordained, yet they are not to be continued in the time of the Goſpel. *Object.*

True, becauſe they were types of future things to be exhibited in the New Teſtament, but Tithes have no typicall intimation in their inſtitution or uſe, being ſet apart by God for himſelfe, and given by him as the wages to his ſervants for doing his work; which he aſſigned to the *Levites* for their time, aud made them ſutable to their ſtate by peculiar ordinances, as *Num.* 18. 26,27. &c. *Anſw.*

&c. *Levit.* 25. 3. 4. 5. which expired with the Prieſthood, though Tithes in generall did not; and therefore ſuch particulars are no more to be urged againſt that maintenance of Miniſters in the New Teſtament, then the Jewiſh obſervations of the Sabbath againſt the keeping of a Chriſtian Sabbath at this day.

3. For that they ſay *of inequality* in reſpect of *impropriations*, p. 6. in reſpect of *tradeſmen in Townes and Cities*, who gaine more then farmers and pay no Tithes, p. 9. and in reſpect of the loſſe which may befall the farmer, when he hath not increaſe to anſwer his coſt and labour, *Ibid.*

For the two firſt, it is worthy conſideration of thoſe who are in authority how to reduce them to more equality. For the third; the exception lyeth no more againſt Tithes now, then in the time when they acknowledge them moſt in force; and when it proveth an ill yeare with the plowman, it will be well for him to conſider whether his unconſcionableneſſe in Tithes have not procured a curſe upon his portion, according to the commination in the third of *Malac.* 8, 9.

And laſtly, for the *trouble of the Miniſter*; 1 If he have but a little Tithe, it will be no great trouble for him to order it, eſpecially ſince he may lawfully exchange it into money. 2. If he have a great Tithe, it will beare the charge of a ſervant to eaſe him of the trouble. And 3. If this inconvenience could not be avoided, (as well it may) there would follow farre greater upon the taking away Tithes, ſuch as before we have obſerved.

With theſe exceptions againſt this revenue of Tithes they have delivered ſomething worthy the acceptation of Miniſters, which is p. 5. 6. *It is the deſire*, ſay they, *of al Gods people (& ſo it ought to be) that the Miniſters of the Goſpell ſhould have a ſufficient maintenance allowed them, nay not onely a ſufficient maintenance, but an abundant, a large and rich maintenance, ſuch a maintenance as they may live liberally without any other imployment but the Miniſtery; Nor is it fit or becomming Chriſtians that their Miniſter ſhould live in a meane condition either of diet or cloathing, but as he is more excellent in calling, ſo ought he to have a more large & better maintenance in thoſe reſpects then others, for he feeding the ſoules with ſpirituall things, the word of God, the people ought to feed his body liberally with their baſe temporall things:* and in the next page ſay they;

*And*

*And is it not a ſhame for a rich and flouriſhing common-wealth to have a poore and bare Miniſtery, either in the generall, or in ſome particulars? & yet into ſuch a condition have Impropriations brought the Miniſtery of this common-wealth in very many places.*

They conclude with an addreſſe to the *high court of Parliament for a reformation in this particular of Tithes*, p. 10. and herein we are content to meet them at the barre of that moſt wiſe, pious, and impartiall Judicatory of the Kingdome, who, as they have, ſo we doubt not but they will ratifie the ancient Statutes, and their owne late Ordinance concerning Tithes; and whatſoever their title be in reſpect of religion, the people may (though ignorant zelots hold, and covetous worldlings pretend they may not) pay them with good conſcience, for the State may impoſe them for the maintenance of the Miniſtery, as well as they may impoſe the 20th part, or any other part they pleaſe, to maintaine a juſt warre, or to pay the debts of the Kingdome; and others may conſcientiouſly ſubmit to ſuch impoſitions; and hereto the moſt learned Divines of the reformed Churches doe agree, (though the moſt of them, as they are miſtaken in the true doctrine of the Sabbath, ſo are they alſo in this queſtion of Tithes) for albeit they maintaine their Miniſters while they live, and provide for their widowes and fatherleſſe children, when they are dead, * yet they reſolve it lawfull to pay the 10th to the popiſh prieſts, though they officiate in an Idolatrous ſervice, upon the command of the Prince, or State under which they live.

This may ſuffice for this little Treatiſe, which, though little, if it had not been leſſe in weight then in length, I would not have been ſo obſervant of the importunity of the Printers calling for my paper, as to diſpatch mine animadverſions upon it in the ſhort interim of one night, betwixt riſing from ſupper and repoſing for ſleepe, which yet had been too much if moſt readers were not too readily prepared to entertaine any Text that makes for their commodity, whether by acquiring advantage, or ſparing expences.

Now for your ſecondary doubt concerning the diſpoſall of your ſonne, give me leave, Sir, to give you my ſence fully and freely in the caſe.

* *Cujus legis (ſcil politicæ) vi nec ipſi fideles reformati denegant ſolvere decimas, in regnis illis, in quibus ſubjiciuntur Principibus qui illas lege ſolvendas ſanciunt; qua ratione etiam à theologis reſponſum fuit nonnullis qui ſcrupulo conſcientiæ ſe teneri prætendebant, ne pontificiis eccleſiaſticis ſolvevent decimas, quia Idololatriæ ſunt miniſtri.* D. Rivet. Exercit. in Geneſ. Exercit. 80. p. 389. col. 2.

1. I ſee by you and him (which I am ſorry to obſerve, yet I feare it is like to prove too true in all ages) that if there be not ſufficient and certaine meanes allotted to the labourers in the Lords harveſt, he is like to have but a few workemen to undertake it, and goe through with it; therefore thoſe that *Julian*-like, take away the hire of ſpirituall labourers, make way, as much as in them lyeth, for the marring of the harveſt; for either there will be a want of workemen, or of ſuch ſufficiency in them as may make the worke to proſper in their hands: hence is the miſerable condition of the Greeke Church, living (if not languiſhing) under the dominion of the Turkes, where their Clergy as they are the meaneſt ſort of men, (like *Ieroboams* Prieſts, who though they were to ſerve in the *houſe of high places, were the loweſt of the people*, 1 Kings 12.31.) ſo are they as deſpicable for their ignorance and meane qualifications every way as for their poverty, having no ſchooles of learning among them, and therefore more like either to poiſon or famiſh the ſoules committed to their charge, then to feed and nouriſh them with a competent meaſure of *the ſincere milke of the Word, that they may grow thereby*.

G. Sandys his Travailes l. 1. P. 77.

2. But I feare no ſuch fayling of maintenance for Miniſters among us, as may occaſion ſuch a diſcouragement to parents that they ſhould not be willing to diſpoſe of their children in that calling, for feare they ſhould ſerve Chriſt upon ſuch poore termes as the Prieſts of *Iſis* did that heathen goddeſſe, who were not allowed a new ſuite untill the old was worn to ragges.

Vincent. Charter. *de* Imag. Deor.

3. Yet if that were true which you reade in the weekely pamphlets, or which you had by report, of the likelyhood of putting downe Tithes by the Parliament, I muſt tell you plainly as your friend, I like not your wavering touching the diſpoſall of your ſonne; for if he be furniſhed with perſonall abilities for the ſervice of the Sanctuary, if he be (as I hope he is) a man of holy life and converſation, if he find himſelfe inwardly moved by the holy Ghoſt to enter into that holy function, it will be a greater ſacriledge in you then robbing of the Church of ſo much Tithe as would maintaine him, to divert him from the ſervice of Chriſt, and ſalvation of ſoules, through diſtruſt of the divine providence for his ſupport. And therefore,

4. If I conceived you to be ſo carnall a father (but I dare not thinke you are ſuch a one) I ſhould turne my ſpeech from you to your ſonne, had I opportunity to ſpeake with him, and exhort him not onely to ſerve Chriſt, but to ſuffer for him, in the words of *Hierom* to *Heliodorus*, *rather to tread upon you, if you ſhould lye as a blocke in his way, then to make a ſtop, or to retire from following after Chriſt*, though in zeale and haſte he ſhould overtake the Croſſe; for in ſuch a caſe *it is a kind of piety* (ſaith he) *to ſhew cruelty towards our chiefeſt friends*.

*Licet in limine pater jaceat, per calcatum perge patrem ſiccis oculis ad vexillum crucis evola.* Hieron. *ad* Heliodor. Tom. 1. p. 2.

*Genus pietatis eſt in hac re crudelem eſſe.* Ibid.

Thus, as my little leiſure would allow me, I have endeavoured to ſatisfie your deſire in reſolving your doubt, and I hope that I have written will reach a little further then you thought of, even to the ſettling of your reſolution to dedicate your ſonne to the ſervice of our Saviour; and to ſerve him upon ſuch tearmes whatſoever they be, as the Divine providence in the condition of the times ſhall put upon him, and ſo you have my advice, and you ſhall have my prayers for you and yours.

*FINIS.*

BRITISH MUSEUM

4

# TRAYTORS

## Deciphered in an anſweare to a *Shameleſſe Pamphlet*, entituled *a Declaration of the Parliament* of *England*, expreſſing the grounds of their late proceedings, and of ſetling the preſent *Government* in the way of *Free State*.

*England Commonwealth Parliament*

IN humane bodies the beginnings of moſt mortall diſeaſes are leaſt diſcerned, and in States the deſignes of ambitious uſurpers are not beleeved, till it be too late to prevent them, and thence proceeded the preſent ſad eſtate of the English Nation, wherein many truſting in the loyaltie of the Commons in Parliament, could not ſuſpect the impietie of a potent faction in it, nor apprehend, that their *proteſtations* to defend the *Perſon, Honour*, & *Eſtate* of their *King*, and their ingagements to make him a *glorious King*, and their often invocations of the name of *God* for a teſtimony to the truth of their profeſſions, were only a maske to their lewde intentions: And thoſe Traytors painted their papers with ſuch vehement expreſſions of affection for the ſervice of his late MAJESTIE of bleſſed memory, that he was inforced to labour for a long time to perſwade the people to beleeve that, which he foreſaw, and ſince hath come to paſſe; it being the ſcope of diverſe *Remonſtrances* to ſhew, that thoſe men intended what they now juſtifie, which yet undeceived not ſome, who abhorred ſuch crimes, and

would not beleeve the deſigne of them : But now, having ſubdued the people, theſe men avow to the world thoſe ends, and actions for juſt, which they abjured, as execrable, impieties, & maintaine thoſe artificiall diſſimulations, which they made their King for religious prudence, and as the people were trained into a diſloyaltie, while they pretended to defend law, ſo they are now under the pretence of peace perſuaded to ſubmit to the tiranny of falſe uſurpers, and continue in a damnable diſobedience to their lawfull King, and to that purpoſe they publish this Declaration, as an Apologie for ſuch ſins, as are not to be named among Chriſtians.

They ſtile it, *The Declaration of the Parliament of England, ſaying the Parliament of England elected by the people, whome they repreſent, and by them truſted, and authorized for the common good, having long contended againſt tiranny, do humbly; and thankefullie acknowledge the bleſſing of God upon their endeavours.*

Themſelves well know, they are not the Parliament of England, and that they take the name only for that the people have been accuſtomed to it, and conceive power in it, and though they want thoſe parts, that conſtitute a Parliament, & without which it hath not a being, yet they make the name a falſe guide to miſleade the people, & by ſaying they are elected by the people, they inſinuate an intereſt, that the people have in them, more then in the King, whom they were bound to obey, that thereby they might encline them to ſupport any power, they ſhould claime, as if it were their own : But as theſe ſeducers magnifie the peoples power to them, ſo withall they tell them, they cannot uſe that power, but muſt put it into their hands, and when they have it, the people neede not now be told, that they will keepe it, and keepe them in an exact ſlavery, though they thus flatter them with imaginary power, & libertie that election they talke of, is no more in the people, they ſay, they repreſent,

preſent, then the laying of thoſe monſtrous impoſitions, they now beare, both being equally enforced from them.

In the Parliaments of England ſuch, as elected never did, nor could truſt, nor authorize ſuch, as they choſe, further, then the Kings writ directed them, and thoſe Traytors, though ſo farr paſt shame, will not affirme ſuch a power by the Kings writ, that he should invite his own depoſition, and death; And if the people of England had perceived ſuch a power, or diſpoſition in the perſons, they choſe, as theſe men expreſſe, its likely they would have made more adviſed elections, & not have ſacrificed the hononr, freedome, and plentie, they enjoyed, to the Tiranny oppreſſion, and arbitrary government, they now live under, and to bring them into this miſerie, theſe rebells have thus long contended by falſe pretences, and cruell warrs againſt their King, and government.

Their expreſſions have generally a falſe ſence, or a falſe application, as is obſerved in theſe few words allready & in the next, the mention of their thankefull acknowledgement of Gods bleſſings for the preface of ſuch an heape of malicious untruths as follow, is not preſented to God in devotion, but to the people in hypocriſie to gaine an opinion of Godlineſſe, & many are ſeduced to beleeve, that they, which uſe religious ſpeeches, cannot harbour devillish deſignes, but time hath diſcovered the untruth of their profeſſions, and the unſinceritie of their devotions, and that ambition, and coveteouſneſſe are the Idolls to whome they proſtitute their utmoſt ſervice.

*To prevent power to revive tiranny, injuſtice, warr, and all former evills, the Parliament have been neceſſitated to the late alterations in the Government, and to that ſettlement, which they judge moſt conducible to the honour of God, and the good of the Nation, the only end, and duty of all their labours.*

New powers never wanted tiranny, nor change of Go-

vernment tedious warr, and misery, themselves practice both upon the same occasions, & they perswade the people, that such ways, as necessarily tend to such bad ends, are the only paths to avoide them, and the opinion, and experience of all ages is now accounted by these men a mistake, they will cure consumptions by blood-letting: If justice were their care, they would not assume a power against law, nor condemne so many without triall, or hearing. And if the honour of God, or good of the Nation were any of their end, they would not like mercilesse Phisitians practise on the people to try the conclusions of their fansys against the approved rules of religion, and reason. It were very strange, if these men should thinke themselves fit to judge of what is most conducible to such ends. And as the means, they use towards them, which are anarchy in Church, and State, and the worst of tirannyes, so is it a certaine proofe, that they use it now to serve their own turne without regard to the Nations good, or Gods honour.

They proceed and *Suppose it will not be denyed, that the first institution of the office of* King *in this Nation was by agreement of the people, & for their better Government according to such laws, as they did consent to.*

Though they are thus confident their assertions will not be denyed, yet they know there is no certainty, that it was so, nor hath any history, or other testimony induced the beleefe of it, and yet on this bare supposition will they reverse most of Gods commandements, as the *third* in breaking their oathes, where unto they had taken the name of God. The *fifth* in rebellion to their lawfull Superiors. The *sixth* in the execrable murthers they have committed. The *eigth* in the rapines, and spoiles of mens goods. The *ninth* in accusing, and condemning lawfull actions for capitall crimes, so powerfull is their passion, so weake the reguard of Gods law in them.

But as the Scripture, the ground of truth, delivered

unto

unto us the frſt plantations of the world, and beginning of Kings from paternall Governours, ſo we may not exclude our own Kingdome from ſuch a riſe. And as the Government of Kings was univerſally received among the people in the firſt ages of the world, ſo is it moſt apparant, that laws were ſubſequent, not precedent to Kings, who by the Stories of all Nations are regiſtred for the law-makers of the people, and the people are never law-givers to their King, nor indeede can be, in regard of the incapacitie of the greater part, and unactivity of the whole, it being and impoſſibilitie, that all ſhould convene, and agree before a Government erected among them. And though Princes in prudence conſult with perſons of ſeverall parts of their dominions for their better information in framing laws, yet their right of Government depends not on thoſe laws, as it could not be given by them.

They ſay, *Let thoſe, who have obſerved our ſtories, recollect, how very few have performed the truſt of their office with righteouſneſſe, and due care of their ſubjects good.*

If thoſe men had obſerved our ſtories, and were not blind with their own Phariſaicall righteouſneſſe, they would have ſeen juſt cauſe to forbeare this ſcurrilous reproach: For if defence of the Church, the making of good laws, appointing good Magiſtrates, protection of the people againſt forraigne force, and domeſticke oppreſſion, if honourable warrs, and famous victories be the performance of the truſt of their office with righteouſneſſe, our hiſtories report many of our Kings eminent in thoſe performances, and were it otherwiſe, its a childish reaſoning againſt an office for the errours of the perſons that exerciſe it, which is the common Logicke of theſe men, who thinke they muſt do their worke by ſuch whoſe capacities exceede not the apprehenſion of the noiſe of words, and cannot diſcerne the ſignification. In the time of the Kings of Iudah we ſhall ſee

a greater

a greater number of ill raigning Kings in proportion to that of England, though it were the family God choſe for the Governinge of the Nation, and yet then no Prophet, nor people adviſed the change of Government. If the faults of Rulers were a cauſa to change Government, nor formes of Government would be found, which did not produce perſons in Government, as liable to exception, as Kings, eſpecially if the people, or multitude may judge, and by this rule Government would change as faſt, as opinions.

They ſay, *many have made it their ſtudy, and labour to ſatisfie their particular ambition, and power with high preſſures upon the ſubject, and horrid prodigalitie of Chriſtian blood upon punctillioes of them own honour, perſonall titles, and diſtaſtes.*

Its poſſible ſome Kings may do ſo, but many they finde not, and their tragicall exclamation is an artificiall impoſture; For in our ſtories the greateſt, and moſt frequent calamities of the Nation ſprung from the credulitie of the people, who following plauſible uſurpers againſt their lawfull Soveraigne occaſioned the miſeries we finde recorded: And do theſe men thinke its a punctillioe to fight a Kingdome, or recover uſurped dominions? And yet ſuch were the grounds of moſt of our warrs: And if by perſonall titles, they meane the title to the crown, it cannot be numbred among punctillioes: But what do theſe wretches thinke of themſelves, that have raiſed, and continued this horrid rebellion to change a lawfull Government? If it be a cauſeleſſe warr to remove an uſurper, is it not a wicked warr to uſurpe? And ſince they cannot deny the lawfullneſſe of Monarchicall Government, muſt they not confeſſe the preſent warr on their part worſe, then a punctillioe, which hath drawen on the preſent miſeries? It being diſputed daily in Schooles, what Government is beſt (accordinge to the difference of the peoples diſpoſition) but agreed by all, that without the will of their Prince. And in this warr of theirs they

they have shewed greater contempt of the peoples good, higher preſſures and more prodigallitie of Chriſtian blood, then ever was exampled in the worſt of our English Kings.

From their animoſities againſt Monarchy, they proceede to their perſonall reproaches of his late MAJESTIE. Their words are:

*In the whole line of them, how farr hath the late King exceeded all his Predeceſſors in the deſtruction of thoſe, he was bound to preſerve, and inſteed of ſpreading his protection unto all, ſcarce permitting any to eſcape the violence of his fury.*

Their continued licentious expreſſions in all their writings render their aſſertions incredible to all ſober men, and this diſproportionall, and tranſcendent untruth declareth their loſſe of reaſon, as well, as honeſtie, and that they ſpeake not as they thinke themſelves, but as they would have others beleeve; For is there a perſon upon the face of the earth, that beleeves his late MAJESTIE to have exceeded all his Predeceſſors in deſtruction of thoſe, he was bound to preſerve when his profeſt enemies, thoſe perſons, that have invenomed their pens with all, that malice, & ſpight could infuſe, have not in all this fardell of reproaches, they open againſt him, produced one ſingle perſon deſtroyed by him, nor any unprotected, that ſought his protection, while he had power to do it, and his diſpoſition, ſo naturally averſe to furie, ſets him in the ranke of moſt gracious Princes by the conſent of all knowing men: And if we compare his innocencie, and thoſe aſperſions with any former examples, we ſhall finde none, that have ſo cauſeleſlie, and uncolourably published ſuch deteſtable ſlanders of any perſon of what qualitie what ſoever.

But to manifeſt this truth (they ſay) *It will not be improper to take a ſhort view of ſome paſſages in his raigne, wherin he much further out went all his Fore-Fathers, then any example can be fouud of punishment.*

We shall ſee by theſe perticulars the untruth of their former aſſertion, and of this likewiſe; but its true, they can finde no example of punishment by ſolemnitie, and forme of juſtice upon any King by his own ſubjects, eſpecially in England, where before theſe daies, the mencion of ſuch a doctrine was deteſtable to all honeſt men, and ſuch, as held opinions ſo irrationall were eſteemed as voide of underſtanding, as loyaltie.

They begin, *That in the diſſolution of the Parliament the ſecond yeare of his raigne, and afterwards, he shewed an unnaturall, forgetfulneſſe to have the violent death of his Father examined.*

They well know the falſehood of this charge, and the Kings command to the Lords of his privy Councell to examine that report, and though the truth of the fact have been repreſented to them, whereunto they never have, nor can make reply, yet without all modeſtie they ſtill inculcute it into the ears of the people. Themſelves well know, that the Parliament fully examined the death of King Iames, they found it not violent, but naturall, and in the phiſicke applied him they found nor venemous matter, nor ill intention in him, that gave it, and its not likely that a Parliament ſo compoſed, as that was, whereof many out of peevish malice, others out of ſubtill ambition furiouſly proſecuted the Duke of Buckingham, would forbeare to charge him with Treaſon, if there had been colour of ſuch a crime, and its incredible, that in the whole Parliament no one man should thinke there was cauſe for it; if there had been any. And if after ſuch an examination his MAJESTIE should have further proſecuted a groundleſſe ſuſpicion, he should have blemished his juſtice by an injurious ſcrupuloſity, and to avoide unjuſt ſlander made himſelfe liable to juſt cenſures: By the way obſerve, how theſe men ſerve themſelves of pretences, that make it ſo great a crime in his late MAJESTIE, that he had not without

ground

ground proſecuted an unknowne offence touching the death of his Father, and yet diſinherit, and proſcribe his MAJESTIE now living, and the Duke of Yorke (a Prince in the tenderneſſe of his age) for their affectionate endeavours to preſerve their Fathers Crown, and life, an act, which an enemy, not wholy embrutisht, would have loved, and honoured, and the ſavage cenſure upon ſo eminent a vertue proceeds from Politicke injuſtice, and tirannicall jealoſie, and shew how well they love parricide, and how mnch they hate obedience.

Next, they ſay, *The ſad buſineſſe of Rochell, and the Iſle of Ree, the poore Proteſtants of France do yet lament.*

It may be ſome Proteſtants of France lament the reducing of Rochell, and ſome others among them ſay that the defence of Rochell againſt their King was treaſon, but what was the Iſle of Ree to the Proteſtants of France? Was it not in the poſſeſſion of the King of France, when the English landed there? But becauſe the late King had ill ſucceſſe there, they would perſuade men, that he betrayed the Iſle of Ree, as well, as Rochell, and with no more probabilitie the one, then the other. But in every period we may ſee how careleſſe they are of truth, and diligent to ſlander, and though his late MAJESTIE had no obligation to aſſiſt the Rochellors, yet he was at great expence in the middeſt of his many other neceſſities to furnish foorth fleets, and armys in their defence, he having then warr with France. If he had not intentions of aſſiſtance, its incredible he would have been at ſuch coſt without cauſe, and if theſe men had any deſire of truth, they might finde by the relation ſet foorth by the Rochellors of that whole buſineſſe, that Rochell was not betrayed, and that his late MAJESTIE ſincerely endeavoured the preſervation of it: And if theſe men had not loved matter of ſlander, more then good of Rochell, they would never have called it a ſad buſineſſe in this place.

No reaſonable man can thinke theſe two falſe objections tend to manifeſt the truth ( as they call it ) of that aſſertion, that his MAJESTIE hath exceeded all his Predeceſſors in deſtruction of thoſe he was bound to preſerve.

That the loanes, unlawfull impriſonments, and other oppreſſions, that produced that excellent law of the peticion of right, were moſt of them againe acted preſentlie after the law made againſt them.

They have not inſtanced in any particular, and therfore it amounts to no more, then an infamous libell, and this law was never underſtood a prohibition to the King to ſeeke his right in a way of juſtice, nor to take away what the law gave him, for then it would have deſtroyed thoſe, he was bound to preſerve, and rather have merited a repeale, then a commendation, it being as imprudent, as unjuſt to deny the King, both the wayes of power, & of law for his ſupply: And they cannot name an action of his MAJESTIE, that was not left to ordinarie juſtice; But this excellent law theſe men have made impertinent, and voide, and though they thus talke, broken in everie particular.

As *Firſt* in the exerciſe of Martiall law againſt that Statute; *Secondly* by taking Taxes without common aſſent in Parliament by King, Lords, and Commons; *Thirdly* by extravagant demand of loanes, and impriſonning, and ſequeſtring men for refuſall; *Laſtly* by taking free quarter againſt the will of the ſubject. Theſe are the principall, if not the whole contents of that excellent law, and they can not deny to have broken every part of it, and if the King had done the ſame thing, had he therby exceeded all his predeceſſors in deſtruction of thoſe, he was bound to preſerve? But the whole Kingdome is a witneſſe, that neither of theſe perticulars were practiced by his MAJESTIE after that peticion, which muſt not be extended by theſe mens comments, but conſtrued by the interpretation of ſuch, as

by

by the laws of the Kingdome are appointed to that office, which are the ſworne Iudges, who by their learning, and experience are fully qualified for that charge, which is above the capacities of theſe declarers.

His impriſoing members of Parliament, as it was not without frequent Preſident, ſo the crimes, for which they were accuſed, made their reſtraint juſt, and neceſſarie, no Priviledges of Parliament extending to it: And their ſoone releaſe as well, as inconſiderable number, exempts this perticular from crime, much more from being a deſtruction of thoſe, he was bound to preſerve; And the reſtraint of ſome others for exceeding the bounds of Parliament libertie, was no act of his MAJESTIES, but of the Iudges.

*His proſecuting Marchants refuſing to pay tonnage, and poundage, not granted by Parliament.*

Then its not a deſtruction of thoſe, he was bound to preſerve, if granted by Parliament, and ſo produced by them to make an heape only: But its a known truth, that tonnage, and poundage was neceſſarie for the preſerving of the Kingdome, & taken by diverſe of his Predeceſſors without grant in Parliament, and therfore he exceeded them not hereby in deſtruction of thoſe, he was bound to preſerve, & though it were much debated in Courts of Iuſtice, and former Parliaments in the time of King *James*, whether the King could impoſe on marchandize, & great variety of opinion among the beſt Lawyers, yet there was no determination againſt the Kings right in that Point: But theſe proſecutions were the acts of his MAJESTIES learned Councell, not his, and they were proceeded in only in the ordinary way of juſtice: And theſe rebells now inforce Marchants to pay the ſame tonnage, and poundage not granted by Parliament, and his MAJESTIE had quitted it.

*The punishment of many good Patriots for not ſubmitting to whatſoever he pleaſed to demande*, is a malicious untruth.

*The multitude of projects, and monopolies eſtablished by him,* amounts to this, that ſome few grans under pretence of publicque good eſcaped his Councell, who have the overſight of ſuch affairs, and which were their Acts, not his, which his late MAJESTIE, ſtill left to the trial of law, and upon information of their inconvenience revoked.

*His deſigne, and charge to bring in Germain horſe to awe them into ſlavery*, is a wilfull ſlander, the end mentioned being ſo farr from his MAJESTIES intentions, as the thing it ſelfe was not deſigned by him: And if at that time, they pretend it to be, he had intended any ſuch thing, he had a greater ſtrength, then that partie of Germaine horſe to have effected it, and he might have proceeded to have brought in the Germain horſe, if he had ſuch a deſigne.

*The grand Project* (as they call it) *of Shipmony* was judged by the beſt learned of the laws of England to be his MAJESTIES right to require, and it was ſo farr from being a deſtruction of thoſe, he was bound to preſerve, that themſelves well know it was wholy converted to the uſe of the *Royall Navie*, and that it added to the honour, and ſtrength of the Kingdome, and no ſuch extravagant ſubjection can be imagined, as they fancie, upon mens eſtates to what proportion he only pleaſed, it being confined to neceſſarie defence of the Kingdome according to each Countries proportion: But as this is none of the crime, they call it, ſo is it not his late MAJESTIES act, but theirs, that adviſed it, and shewed him law, & ancient Preſident for it, ſo as he exceeded not his Predeceſſors in taking it, but releaſing it.

*The ſollicitations, promiſes, and threats to Iudges*, is a forgery without colour of truth.

*The oppreſsions of the Councell table, Starrchamber, and other Courts*, if aine ſuch were, were not his acts, much leſſe prove him to have exceeded any of his Predeceſſors in deſtruction of thoſe, he was bound to preſerve: And if theſe men were

to produce the perticulars of thoſe oppreſſions they ſuppoſe, it would appeare for the moſt part, that this calomnie was taken up, for that the juriſdiction, which ſome of theſe Courts exerciſed was for the publicke peace; and due punishment of the moſt refractorie, and ſcandalous offenders: And they make the very laws, and Courts crimes in their King: And the matters of *Purvoyance, Wardships, Knighthood,* and *Forreſts* were proceeded in according to the advice of his MAJESTIES learned Councell, and former practice, and hither to there is not the leaſt proffe of oppreſsion, or crime in his late MAJESTIE, much leſſe deſtruction of thoſe, he was bound to preſerve, the fower laſt mentioned perticulars being *undeniable rights of the crown*, and uſed in the times of all his Predeceſſors: But there were no new a *Foreſtations* in his late MAJESTIES raigne, & ſome queſtions ariſing touching the extent of ancient *Forreſts*, they were proceeded in by way of law, which cannot be his acts.

*The exact ſlavery forced upon thoſe in Ireland with the army of Papiſts to maintaine it, and the poſition of being looſe, and abſolved from all rules of Government, was but a patterne for the intended modell heere.*

There is no act, they mention, which reflects on the King, but is repreſented by them with ſome improper name, and incongruous Epithite: The condition of the ſubjects of *Ireland* was as farr from ſlavery, as any ſubjects of Europe, and yet they call that exact ſlavery, which had not the leaſt reſemblance to it: But theſe men account due ſubjection exact ſlavery, and could they demonſtrate the State of *Ireland*, but halfe ſo bad as the condition of the English at this day under their tiranny, it would be acknowledged an exact ſlavery: But as *Ireland* was never in ſo great proſperitie, nor further from ſlavery, ſince it came to the English poſſeſsion, then it was immediately before the beginning of theſe troubles, ſo was it the intereſt of the crown to continue, and increaſe it: The abundance of trade, & wealth

are

are not ſignes of the peoples ſlavery, & there hath not been obſerved the leaſt illegall innovation upon that Nation: Of what ever perſons that army, they mention, had conſiſted, its out of queſtion theſe men would have ſtiled it by that name, that was moſt apt to beget miſopinion of the King, and therfore its called an army of Papiſts, though the being of ſome Papiſts in it make it not an army of Papiſts, no difference of Religion exempt men from ſervice of their Prince; If it had been rayſed to prevent the rebellion there, or in England, as it was for that in *Scotland*, it had been an act of no leſſe prudence, and to be Papiſts is not to be apt Miniſters of ſlavery: But theſe men have learned this way of reproach from Papiſt, who ſaid the Emperour *Charles* the fifth entred Rome with an army of *Lutherans*, the people having a propenſion to beleeve any evill of men of different Religion, but the levying of this army was after the rebellion of *Scotland* begun, and impoſſible to be deſigned to maintaine ſlavery in *Ireland*: The great number of Papiſts in that Kingdome, their impatience of any thing like ſlavery, beſides the preſent experience, ſhewes the groſneſſe of this ſuppoſition, that the Irish should be inſtruments of their own ſlavery: There is nothing ſo abſurd, but ſome men will beleeve, and thence nothing is ſo incredible, which theſe men will not affirme: The poſition, they mention, is their own, and they cannot fix it on any of the Kings Miniſters, and on himſelfe they pretend not: But that neceſſity doth abſolve from ordinary rules of Government, ſome of the Kings Miniſters might hold true, yet no man is ſo voide of reaſon, or ingenuitie, but themſelves, to thinke there was any intended modell to Governe without rule, yet theſe men publish this very Declaration to juſtifie, that they are abſolved from all rules of Government but their own opinion, for they profeſſe the chang of the State from a *Monarchy* to a *Republicke*, and that they cannot do but they muſt aknowledge,

that

that they hold themſelves looſe of all rules of Government.

*The long intermiſſion of Parliaments, and determination to be troubled with no more*, may be a juſt reſolution, as long, as the times, or diſpoſitions of the people be unfit for it: And as Parliaments were called on extraordinarie occaſions, ſo if the King finde not the neceſſitie of them, he is not obliged to call them, and the great ſecuritie, and eaſe the Kingdome enjoyed in that intermiſſion, and the unhappineſſe ſince, are great proofes, that the times required them not.

They proceed to *Scotland*, and ſay, *there was a miſtake in ſending the ſervice Booke* (thats no crime I hope); But they ſay, *that raiſed the Scots oppoſition*; the more their offence: *And gave no incouragement to the English to ingage againſt them*; The greater their errour, being deluded by cunning Factors of a ſecret Treaſon; This, they ſay, *Occaſioned the calling of the short Parliament, and failing of his expectation of twelve ſubſidies to buy out Shipmony, to the terrour of moſt men, he diſſolved it*: The ſumme is, that he deſired ſupply to prevent an invaſion, and they would not grant it, though he offered to quit a queſtion of his prerogative, and therfore he diſſolved the Parliament: Where is the offence, but in their disloyaltie, and neglect of their Country? I beleeve, if that Parliament had foreſeen the event of their backwardneſſe, and known the plots of theſe among them, that governed the houſe at that time, they would have prevented their deſignes with a farr greater proportion, then twelve ſubſidies, and the terrour of an enemy cauſed by their deniall.

*The Scots upon the* Kings *breach of faith with them, and perceiving the diſcontents among us, came with an Army into England.*

That the King brake faith with the Scots is a lewd lye; That their comming into England was rebellion, all English men beleeved, but theſe men will rather defend the Scots, then looſe a ſlander of their King, & the diſcontents among us were infuſed by theſe rebels to let in the Scots, and prepare a way to confuſion.

*The King* (they say) *by many unjuſt wayes raiſed a force to oppoſe them, and this was the deſtruction of one another.*

An unjuſt way can hardly be imagined in a King to raiſe an army of his ſubjects to oppoſe an invading enemy; But the malice, and diſloyaltie of theſe men makes them madly charge their King with the deſtruction of his ſubjects, for endeavoring to preſerve them, and their Eſtates thus invaded by the Scots, and repell an inſolent rebell with force, and themſelves in their next words complaine, how they were damnified by this invaſion.

*Seeing no other way he condeſcended to call this Parliament.* The event ſhews his prudent backwardneſſe, and the errour of thoſe, that importuned it.

*Vaſt ſums were required of the people of England to gratifie thoſe, by whome they had been damnified, and both armys payed by them, who neither occaſioned, nor conſented to the raiſing of either.*

Its certaine the King required not theſe vaſt ſumms, but the principall Traytors now among theſe men, having then a power in the houſe of Commons had called in thoſe *Scots*, kept intelligence with them, and agreed with them to draw out their treaty into length, that they might forme the like rebellion in *England*, before the *Scots* returned, & in the meane time to pay their army, and reward them, and to this end theſe vaſt ſomms were given the *Scots* by the houſe of Commons, as appeares by the Bookes of that houſe, which was the price of the *English blood*, and *Scots rebellion*; And though the King ſought to finish the treatie, and leſſen the charge, and ſent diverſe meſſages to that purpoſe, he could not prevaile againſt the ſecret practices betweene the Traytors of both Nations, and this baſe action, which themſelves thus cenſure, is evidentlie their own, though the coldneſſe of their brotherly affection at preſent make them reproach the action, and ſeeke to caſt of the guilt on the King, though his MAJESTIE ſhewed his utter diſlike, as he had good cauſe,

against

againſt that prodigallitie of his ſubjects wealth for the hire of a *Treaſon* againſt himſelfe. And that this was the ſole advice of the houſe of Commons, and conſented to by his MAJESTIE in reguard of the preſent neceſſitie, is apparant by the act, wherein the treatie with the Scots is confirmed, where the words are, that *this houſe thinkes fit, that a friendly aſſiſtance, and releife ſhall be given towards the ſupply of the loſſes, and neceſſities of the* Scots, *and that in due time this houſe will take into conſideration the meaſure, and manner of it*, and afterwards they declared, *that three hundred thouſand pounds was a fit proportion of that friendly aſſiſtance towards the ſupply of the loſſes, and neceſſities of their brethren of* Scotland. And where now lies the guilt of this gratification? And as by their own confeſſion it lies on themſelves, ſo likewiſe the deſtruction of many of thoſe Noble Perſons, by whoſe endeavours, they ſay, *The King called the Parliament*, hath been effected by them, and thoſe numbers of gallant men, which, they ſay, were prepared by the King againſt the Scots, have been cruelly maſſacred by them, whileſt they ſtood in defence of their King.

Their next untruth, is, *That the English Army was laboured by the King to be againſt the English Parliament*: Themſelves know, they have not the leaſt colour of this aſſertion; and yet if we could beleeve, that the proceedings of the rebell faction in Parliament, were the actions of the Parliament, as they underſtand the two houſes to be, *Nature*, *Reaſon*, *Law*, and *Religion* would direct the King to engage an army againſt them for their combination with the *Scots*, rayſing up the tumults, over-awing the members of both houſes, and plotting to take away his *Kingdome*, and *Life*, which now are acted.

And they ſay, *It is a thinge of that ſtrange impietie, and unnaturalneſſe for the King of England to ſollicite his ſubjects of England to ſheath their ſwords in one anothers bowells, that nothing can anſwere it, but his own, being borne a forraigner, nor could it eaſily haue purchaſed*

*beleefe, but by his ſucceeding viſible actions in full purſuance of the ſame.*

And is it not moſt unnaturall, and perfidious for ſubjects of England called to Parliament by their King, to engage themſelves, and the English army againſt the King of England their naturall Soveraigne? As his ſucceeding viſible actions in granting ſo many of their undutifull demandes, ſo prejudiciall to himſelfe, his ſeeking of peace, and neglect of all preparations of warr, till an army was formed againſt him, and his Townes, Forts, and Navie ſurpriſed, and imployed againſt him, make this aſperſion utterly incredible, ſo the ſucceeding viſible actions of theſe rebells declare to all the world the juſt cauſe he had to do it, and their prodigious impietie, and unnaturalneſſe being ſubjects of England to ſeduce, and compell their fellow ſubjects to bath their ſwords in one anothers blood, and take away their Kings own: And had they not published theſe infamous libells, after ages would not have beleeved the madneſſe of their poſitions, nor impiety of their actions: The Kings being borne in another Country makes him not a forraigner, and to be a forraigner doth rather diminish the crime of unnaturallneſſe, and merit of punishment, if the ſuppoſition had been true: But they will rather vent an irrationall inference, then forbeare a word, that may cauſe miſtake with the people: All men may meaſure the proportion of their words to their matter by this, that the matter they would have beleeved is, that the King would have engaged his army againſt them, as rebells, & they lay about them with words *of impietie, and unnaturalneſſe, and sheathing of ſwords in one anothers bowells, that nothing can anſweare it, but his own, and it could not have purchaſed beleefe*: May not all theſe termes be applyed to all the levies, that Kings, or States make againſt rebells? Nay themſelves muſt confeſſe, it may be applyed to their own rayſing of armes, and in truth it muſt: But theſe men have made their vanity legible, as well, as

their

their impietie, exclaiming againſt warr, while they proſecute it, as if therby the King were guiltie of it.

*The firſt execution of this deſigne* ( they ſay ) *of miſerie fell upon our poore brethren in Ireland, where ſo many ſcores of thouſands of them were with ſuch wonderfull crueltie murthered, that ſcarre any bowells, but are filled with compaßion at it, and yet ſome of the murtherers have not forborne to affirme, they had the* Kings *commißion for their actions.*

There is a great concurrence in the pretences of rebells, as there is in their actions, and intentions, and it may be ſome of the rebells in *Ireland*, to deceive the people, and diſguiſe their rebellion, might ſay, they had the Kings commiſſion, as themſelves in England at firſt ſaid, they were for the King, and for King, and Parliament was their word, and and they ſaid, all, they did was by the Kings Authority, but themſelves know, there was no ſuch matter, and yet their conſcience is ſo much waſted, as they produce a rebells pretence for a ſlander of their King, and ground of their horrid proceedings.

The miſery of *Ireland* was undeniably occaſioned by the inſolencie, and diſorder in the Parliament of *England*, and the troubles beginning, and increaſing heere gave the advantage to the rebells there to execute their deſigne : But they had neede of cleerer reaſon, then any they have yet produced, to perſuade any man, that the rebellion in *Ireland* could conduce to any ſuch deſigne on the Kings part, as they would have beleeved: And as they pretend not truth, but report for their aſſertion; ſo its impoſſible there should be, for all men know, the proceedings, and demeanour of the rebells in *Ireland* directly croſſed the Kings intereſt, that ſuch perſons, as were moſt affectionate, and faithfull to the King in the judgement of theſe libellers, as the Marquiſſe of *Ormond*, and others, were the chiefe oppoſers of that rebellion; That *Dublin*, was by the Marquiſſe of *Ormond* delivered into the hands of ſuch, as were imployed by thoſe of

*England*, to prevent the taking of it by the rebells of *Ireland*, and could this consist with a plot on the Kings part?

They say, *His late, and slender proclaming them rebells, his consent to a cessation, whereby the rebells gained all advantage, and the protestants were destroyed by it, his intercepting, and taking away provision, and supplies going to them, are no good testimonys of his clereness from that blood, which cried lowd for vengeance.*

These are nor good testimonys of his MAJESTIES guilt, if true, but of their unfaithfulness, being so often convinced to be false; and his MAJESTIE, is acquitted by plainer evidence, and themselves stigmatized for impostors, that talke of the cry of *blood*, and *bowells* of *compassion*, when its known to all the world, they imployed the mony granted for releife of *Ireland* to raise an army against their King, so tender were they of their poore brethren in *Ireland*.

Themselves well know, the time, and manner of proclayming the *Irish*, rebells, was advised by the Lords Iustices of *Ireland*, by whose Councell, being upon the place, his MAJESTIE Governed himselfe in that action, & neglected nothing for time, or manner, which they or the Parliament of *England* advised, to whom he wrot upon the first intelligence of that rebellion, (being then in *Scotland*,) to take care of it: But these rebells endeavoured to continue the troubles in *Ireland*, to have occasion thereby to raise mony to advance their own designe against the King, and this is apparant, both by their slender, and slow supplies, notwithstanding his MAJESTIES passionate importunities, and the many desires of the Councell of *Ireland*: And his MAJESTIE was so farr from hindering provisions, sent into *Ireland*, as that at his taking of *Chester*, finding some provisions, that had long remained there, he hasted them away, when his own army extreamely wanted them.

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The condition, and deſires of the English proteſtants in *Ireland*, cauſed his MAJESTIE to make the ceſſation, and there is not the leaſt apparance of their prejudice, but plain evidence of their advantage by it: But the madneſſe of theſe men carries them from all reaſon, and if the King make a warr, they muſter up all the ill conſequents of warr to be effected by him: If he make peace, or ceſſation, then he is not cleere from that blood, which cries lowd for vengeance; But theſe raving outcries shew the diſtemper of their brain, as well, as their conſcience.

And now they returne to England, and ſay, *There appeared matter of mourning upon the* Kings *comming in perſon to the houſe of Commons to ſeize five members, whether he was followed with ſome hundreds of unworthy debauched perſons, armed with ſwords, and piſtolls, and other armes, and they attended at the doore of the houſe ready to execute what ever their leader ſhould command them.*

'Where is the matter of mourning here, was their blood 'shed, or any man aſſaulted? And is it matter of morning for the King to come with ſome hundreds to the houſe of Commons to apprehend five members, and matter of joy for ſome thouſands of common Souldiers to take away ten times five members out of the houſe? And yet in the very Declaration, this act is juſtified, and that is matter of mourning, and the reaſon is given, for that the one was done by their army, the other by their King. And as it was not fit for his MAJESTIE to go among hundreds of disaffected Perſons, without ſome hundreds to attend him, ſo ſuch, as attended him at that time, were not above that number, which at other times attended him, nor otherwiſe armed, and for their qualitie moſt of them for worth, and reputation exceeded the moſt of thoſe that make this Declaration, and they were ſuch, as

were

were confident, his MAJESTIE would not ingage them in an unlawfull attempt : And if they had been ready to have executed, what their leader should command, their leader is sufficiently cleerd from ill desigue, that he gave them no ill command, & their duty, and moderation verified, that forbare to act any thing without command.

And thus instead of proving his late MAJESTIE: to have exceeded all his Predecessors in destroying of those, he was bound to preserve, they have proved themselves to have exceeded the worst of traytors in destroying a most gratious King, whome they were bound to obey, and preserve, in slandering his Person, whom by the law of God, and men, they were bound to honour, in reproaching his Government, for which all men were bound to render thankes to God, and denying the blessings God gave them in him, & rather then want pretence for the worst of villanyes they will represent the best of Princes for the worst of men, and the times of greatest prosperitie for most oppression.

They say, *Upon some other grounds (whereby doubts being raised in the people that their grievances would not be redressed, they grew into some disorders) the King tooke occasion from thence to remove from London, where presently forces appeared for him in his own company at Kingston.*

If they were disorders, the King had just cause to seeke force to suppresse them, and it appeares by their favorable mention of some disorders, what their affections were to them, and whence they sprang; for that, which they call some disorders, were continuall rebellious insurrections by the practice of the then faction in Parliament; And though these now confesse them disorders, yet so potent was the faction, and so evident their treason, that they refused to apply any remedy to a force, that tooke away all libertie of Parliament, all duty to the King, and therfore these men must conclude, that the King had just cause to remove, and

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the houſes failed in their dutie, that did not ayde him; And if any forces appeared for him at Kingſton, they preſerved their duty, which others neglected, though in truth that buſineſſe of Kingſton was no ſuch thing, but an invention to abuſe the people: And though theſe men acknowledge diſorders, yet they ſay, it was *Vpon doubts raiſed, that their grievances should not be redreſſed*, which is ſo falſe, that before the King left London, he had paſſed all the bills preſented to him for redreſſe of grievances, and quitted all the queſtions formerly mentioned, which had been diſputed concerning ſome points of prerogative, and there remained not a grievance to be redreſſed; And its apparant to the whole world, that theſe diſorders were created, and governd by the preſent faction in the houſes for *change of government*, and not *redreſſe of grievances*: And the multitudes comming to both houſes, and demanding the names of ſuch, as oppoſed the motions made for alteration of the *Church*, and taking the *Militia* from the King, make theſe diſorders compleate rebellions; And yet theſe men would inſinuate the Kings remove upon ſuch manifeſt neceſſity, to be a part of that deſigne of ſlavery, and the endeavour to defend himſelfe, the deſtruction of thoſe, he was bound to preſerve.

*From thence* (they ſay) *he travelled to the North, endeavoring to raiſe forces, there inticed many members of both houſes to deſert the Parliament, and truſt repoſed in them by their Countrys, and to joyn with him in bringing deſtruction upon their brethren, and themſelves: Inſteed of doing juſtice he protected delinquents from it: At Nottingham he ſet up his ſtandard, from wales, & the marches he got togeather a powerfull armie, and gave the firſt ontſet of battell at Edgehill.*

Why he should not raiſe forces, and ſet up his ſtandard, when the faction in the houſes had raiſed thoſe diſorders, themſelves mention, no reaſon is imaginable, but theſe men are not ashamed to charge him with an hainous crime in ſeeking to preſerve himſelfe againſt open forces, they had

raiſed againſt him; And while they impudently revile their King, offer not a word of the cauſe of the warr, or any colour, why it should be unjuſt on his part, but exclaime of blood, and widdows, and orphants, and yet as malefactors ordinarly do, convince themſelves of the guilt of it by their own relations.

Its true, to be authour of a cauſeleſſe warr, draws the guilt of thoſe miſeries, that it occaſions, but their repetition of the condition of warr is not proofe, the King was author of it, nor that themſelves were not, but that they were is apparant, For the continued inſolencies offred his late MAJESTIE, and unreſtrained diſorder of the people; The great ſtrength, they had prepared, the Kings nakedneſſe, and want of all proviſions for warr, their aſſuminge the *Militia*, ſeizing the *Forts*, and *Navy*, making a Generall againſt the King, and all this precedent to the ſetting up of his ſtandard, are Teſtimonies beyond exception: Beſides they acknowledge themſelves ſubjects, & yet ſay not for themſelves, that ever they peticioned their King, and offered ſubmiſſion, which renders them unexcuſable, though all other proofes were wanting, and though the King had begun a warr without a cauſe

But the Kings armes cannot be unjuſt, where ſubjects continue obſtinate, neither could they reſiſt by armes, though their King uſed unjuſt violence, which is not the caſe of theſe rebells, who have not the leaſt colour for ſuch a pretence; But becauſe the King denyed them to grant the alteration of the Government, they would do it by force.

Its true diverſe members of both houſes, grieved with the injuries offered to the King, the prodigious diſcourſes of diſloyaltie in the houſes, and oppreſſed by the outragious actions without, and ſeeing the wicked endeavours of the rebell partie, & ſeeking the prevention of the evill at hand, left their places, as they were bound by their dutie to *God*,

and

and their *King*, & the truſt repoſed in them by their *Countrys*: For can the Kings Parliament, that ſits by his authoritie, act by that authoritie, or execute any power upon his ſubjects, after they have, either joyned with his enemies, or uſurped his power themſelves, & compelled his ſubjects to quit their allegiance to him? Can ſuch, as he hath appointed Iudges of his people, or Councell to himſelfe, arme his ſubjects againſt him, and yet be his Iudges, and Councell? There can be no law ſo irrationall to permit it, nor any excuſe for them, that ſhall joyne with thoſe rebells in executing ſuch authority after ſuch facts committed, and although they ſhould ſtay, and profeſſe their diſſent to the matters in debate, yet their voting in ſuch a capacitie is criminall: The *Country* truſted them, that they would beare *faith* to their *King*, and not prove *Traytors* to him, to the ruine of their Country; And in performance of that truſt, they endeavoured to bring rebells to deſtruction, who by their falshood, & diſloyaltie had loſt the title of brethren, which title could not excuſe ſo blacke a crime: And though many worthy perſons have been deſtroyed in this moſt pious, and neceſſary undertaking, yet it remains their honour, and a teſtimony, that their proper conſcience, and not inticement, as theſe libellers pretend, moved them to forſake that lewd Aſſembly.

His MAJESTIE had failed in the due protection of his ſubjects, if he had not uſed his endeavour to preſerve them from the power of thoſe rebells, who called all loyall perſons delinquents, and juſtice to deſtroy them.

They will make it a crime in the King to order his army, and for giving the firſt onſet, when an army was come to give him battel, had their army no directions to fight? Why then made they that march? Why were they ſworne to live, and die with the Earle of *Eſſex* their Generall? Is it poſſible to beleeve, they would not have fallen on the King, if they

had ſeene their advantage? And its ſtrange theſe men should thinke it added weight to their charge to ſay the King gave the firſt onſet, when two armys were in the field, might not his condition be ſuch, that he muſt fight, or be ſurpriſed? But as the matter imports not, if true, ſo its uncertain, whether it be, or not.

*He poſſeſſed, and fortified Oxford his head quarter, and many other townes, aud proſecuted a bloody warr againſt the body of his own ſubjects repreſented, and then ſitting in Parliament, a thing never before attempted by any King in this Nation, and which all men have too ſad cauſe with much griefe to remember.*

It had been no crime, but juſt right for the King to fortifie any town in his Kingdome in time of peace, and what is it, when a warr is begun, should he have voluntarily ſubmitted? Themſelves well know he was neceſsitated to what he did, but can it be denied, but there may be Traytors in Parliament, and muſt not they be reſiſted, becauſe they repreſent the people? Doubtleſſe never Parliament in *England* ſaid ſo, nor ever was a time ſo ſtupid, to thinke ſuch an impiety, fit for a law, or that any King, that had courage, and prudence, would ſubmit to ſuch men, if he had force to reſiſt them: Some powerfull rebells in our own Nation in the name of Parliament (which the Parliament of the late King, whereof theſe men ſay, they are; declared no Parliaments, but unlawfull conventions) got ſome Kings into their power, whoſe ſad ends shew, how the name of Parliament may be the maske of the moſt horrid villaines, and what Kings may expect from publicke conventions, when they have broken their dutie, and loſt their shame; And their barbarous murther is proofe ſufficient of his MAJESTIES juſt armes to prevent it.

The effects of warr they amplifie to impaſsion the people, and to be againſt the Kings office of protection; All the particulars, wherein they inſtance, themſelves have acted;

And whoever compares his MAJESTIES moderation, and tender ſence of théſe calamities, which warr neceſſitated, with their cruell, and implacable proſecutions, will judge him the true parent of the Kingdome, and theſe men the falſe pretenders to it; And doubtleſſe, they will ſay, they have killed more, then the Kings partie, for they boaſt of it, and have made frequent thankesgivings for acting it: If they deny impriſonments, the holds of ships a new impriſonment themſelves invented, the gailes, and dungeons of all their quarters, the number of houſes converted to priſons, and the ſuits made for the preferment of gailers places, will cry shame on them, as the bloude of multitudes, that perisht by their inhumane uſage cries for vengeance: They have left teſtimonies of their burning of Townes, & houſes in ſeverall quarters, beſides robbing, and defacing of Churches; And for tortures, there may be a large Catologue of ſuch, as they burnt with matches, & tormented with other arts; They compelled men to take vomits upon pretence of ſwallowing papers, a ſcrutiny unnaturall, and unexampled. And theſe were done by reſolution in Councell, not heate of action; And though his MAJESTIE appeared in his armys, they can produce no one ſuch act of his advice, which they mention; And to propagate deſolation, as if that of warr were too little, they have robbed thouſands of the principall perſons of the Kingdome of their whole eſtate, and enforced compoſitions for them at vaſt ſumms of mony, to the ruine of eſtates, and families; They have deprived thouſands of the Clergy of their whole patrimonie, leaving their families to ſtarve, and begge; They have ſold thouſands of the ſubjects of *England* to forraigne plantations, and Nations, and had it in conſultation to ſell ſome for ſlaves to the Turke, beſides the number of excellent, and noble perſons, that they have cruelly murthered by the hangman; And as all their actions were

againſt their duty to their King, & the truſt repoſed in them by the people,ſo in acting their warr they exceeded in every particular, what they reckon up,as done by the King, which cannot be underſtood of him, but his partie, with this advantage, that their reſolved acts were more cruell, and barbarous, then any they can produce to be done by his partie in the heate of warr.

*Notwithſtandinge all this many addreſſes were made by the Parliament unto the* King *for peace, but could not be obtained, when the leaſt word of his conſent would have ſtopped that iſſue of blood,and torrent of miſerie himſelfe had opened.*

His conſent might be given in the leaſt word, but the leaſt word of conſent to demands, that drew with them ſin, and miſerie, could not be granted, and the Rebellious contrivance of their addreſſes was ſuch, as all conſent was ſinfull, and deſperate, and could not be made without violence of his conſcience, and ruine to his Kingdomes, and people. In the meane time they witneſſe for the King, that he could not have peace without conſenting to their demands, & againſt themſelves, that they might have prevented the warr by forbearing their demands. And to inſtance in ſome of their demands, one was for abolishing of the Church Government, taking away Bishops, and giving away their Eſtates, and his MAJESTIE being perſuaded in his reaſon, that the Government by Bishops was beſt for the Church,and in his conſcience, that it was of Apoſtolicall inſtitution, & being by his oath bound to preſerve it in the Kingdome, the leaſt word of his conſent had been no leſſe, then ſacriledge, and wilfull perjury. But theſe men, that have caſt behind them the reſpect of their own oathes, and all obligations of dutie to their King, thinke it a ſmall thing for him to ſin againſt his conſcience, and do, as they had done. Another was, that all the force by land, and ſea, might be put into the hands of ſuch, as they should name, that they might raiſe what

mony,

mony, they thought fit for that purpoſe, that neither the King, nor any other might raiſe any force to reſiſt an invaſion, or ſuppreſſe rebellion without their conſent, & that it should be high treaſon to do ſo, whereby he should deſert his protection, give up his people to laſting diviſions, and himſelfe into the hands of thoſe, whoſe unfaithfulneſſe, and ambition he had proved: We neede not run over the reſt, but this is the price of peace, and foundation of warr, for the Kings denial is their cauſe of warr, and he cannot have peace without his conſent to it. Though theſe men may find Preſidents for ſome of their villaines, they cannot among all the vulgar diſorders of the world, find ſuch violence offered to ſence, and reaſon, as their writings containe. And to oppoſe them is to contend with beaſts after the manner of men, for in this addreſſe they call themſelves his MAJESTIES *Loyall Subjects*, and ſay, out of the ſence of the dutie, they owe him, and for ſetling his MAJESTIES Throne, they tender him theſe propoſitions: And they now ſay, that the leaſt word of his conſent to their abſurde demandes would have made peace, but preſent experience, as well, as common reaſon, hath confirmed, that the matters demanded eſtabliſh not government, but diſcord, & ſupply matter of continuall warr: And never people before them were ſo irrationally impudent to ſay, they ſought the ſetling of the Kings Throne, when they deſired him to quit it, and published to the world, that their King refuſed to grant a ſmall matter, when no leſſe, then his Kingdome was demanded from him. They profeſſe to fight for taking that power from him, to put it into themſelves, upon pretences of conveniency (but indeede deſignes of ambition) and are not ashamed to lay it, as a crime to their King, that he fought to preſerve his *Right*, and *Crown*, whereas all his endeavours, & utmoſt hazards were required from him in ſuch a neceſſitie: And as his life muſt have been ſoone cut off

with

with ignomie by ſuch conceſſions, ſo it was chriſtianly loſt in refuſing a ſinfull ſubmiſſion, and their ſeeking to conceale their own exceſſes with termes of diminucion, and ſtiling his MAJESTIES neceſſary reſiſtance an exorbitant crime, shews how conſcientious they are of the tranſcendent guilt of their own actions, which will not admit plaine recitalls, but muſt be cloathed with artificiall diſguiſes.

They ſay, *When the great God of battell had determined very much in favour of the Parliament, and the Kings ſtrength was allmoſt fallen away, he would not vouchſafe to come into the English, but rendred himſelfe to his own Countrymen the Scots, giving them the honour of receiving him, and parting with him upon their own termes.*

Though the Almightie be the God of battel, he doth not allwayes give victory in favour, and in the preſent vanquishing of the Kings forces, there are very many reaſons to perſuade us, God determined it not in favour of the misnamed Parliament, but to lay open their falſe pretences, and wicked intentions, and permit them to fill up the meaſure of their wickedneſſe: For *firſt* their brotherhood with the Scots is become hatred, and the pretence of uniting the Nations, as vaine, as falſe. *Next* they are ſubdivided among themſelves, and cannot agree upon sharing the prey. Their fighting for law is become an exerciſe of will: The peoples libertie, ſlavery: And the profeſſions of dutie to the King, performed in mercileſſe crueltie, and finished in his blood.

Its true, the King was deceived by the Scots, but not by theſe declarers, for when he intended to goe for London, he was informed, that they there intended to do that to him, which they ſince have done, and though his MAJESTIE gave the Scots the honour of receiving him upon confidence, that they would have had the honour to preſerve him, which the others had refuſed, yet he thought it their infamy to part with him upon any termes, as it is of theſe men, that corrupted them, and ſcoffe at his miſerie, and applaud their own villaine.

The

The addreſſes, which they ſpeake of, during his reſtraint, the world hath ſeene, and is ſatisfied, that death it ſelfe was more eligible by his MAJESTIE, then agreement to ſuch propoſitions, & they vainely boaſt, they were not heigthned with ſucceſſes, when their inſolencie is ſo notorious in thoſe propoſitions, and in every clauſe of this libell.

*The laſt ſummer*, they ſay, *the effect of theſe deſignes, even whileſt he was under reſtraint, began to breake foorth, a new vaine of blood was opened in the Kings name, a plot layed* (they ſay) (as the termes of their boaſting were) *as deepe, as hell, the fire brake foorth in many parts, and leaſt the English ſhould be too ſmall, or their compaſſion too great, a malignant partie in Scotland is invited.*

Is it imaginable in nature, that a King ſo reſtrained, as his late MAJESTIE ſhould not ſeeke his libertie by force, when themſelves ſay in the precedent line, that votes were paſſed for no more addreſſes to him? And did ever age produce ſuch brazen faced hypocrites, that would charge an enemy in priſon with crueltie, or blood, for wishing well to ſuch, as fought for his freedome, when he could not gaine it by treaty? As innocencie was never more cruelly proſecuted by reproaches, and blood in any man, then in his late MAJESTIE ſo tiranny was never ſo impudently defended, as by theſe miſcreants: But their mencion of *a vaine of blood, and plot, as deepe, as hell, and fire*, in this place, ſhews how falſely they repreſent their own, and their Kings actions, and that their like phraſes elſewhere are uſed with the ſame deceite, Did not they hire the Scots twice to come into *England*, that they might be druncken with English blood? Its like to be, for that their own number was too ſmall, for certaine their compaſſion was not too great. Their calling loyaltie malignancie is the brand of their guilt, & while they accuſtome themſelves to ſuch malicious reproaches of neceſſary duties, they vomit their own ſhame, and give teſtimony to the vertues of their enemys.

But theſe Scots, they are ſo angry with, were imployed by the Parliament of that Kingdome, and if a Parliament ſignifie the whole Kingdome in their account, as they would have the world beleeve, the Scots at this time had the conſent of the whole Kingdome of Scotland, and entred upon juſt right, which before they wanted, when they came in againſt their King; And thoſe rebells, that cenſure this act of the Scots Parliament, leave no credit for the other actions of the Scots Parliament, which they alleage elſe wheare to advantage their cauſe, for by the ſame reaſon, they reject this, others may do the like of any elſe.

But they ſay, *The ſence, and ends of the Covenant were, that the Scots ſhould joyne with the Parliament of England againſt the Kings party, & now the Scots fight againſt their fellow Covenanters the Parliament of England*, and they ſay, *God will not be mocked.*

And do they thinke ſo, that make a *Covenant* to defend the King, and call God to witneſſe to it, when they make the ſence, and end of it, the deſtruction of the King? And when they make the end of their proteſtation to defend the Kings Perſon, and Authority, in their *Covenant*, that the world may witneſſe with their own conſciences their loyaltie to their King, and that they have no intention to diminish his juſt power, and greatneſſe, they call the world to witneſſe, that they were thereby obliged to murther him, and deſtroy all his partie. This aſſuming the name of God to impious contrivances is more injurious to his Divine Majeſtie, then the blaſphemies of an infidell: And had theſe men any feare of God, they would not thus mocke him to his face, or were they *Chriſtians*, as they profeſſe, they would not worke ſuch monſtrous villaines under pious profeſſions. But that *Covenant*, where with theſe men mocked God, entring into it for falſe, and ambitious ends, is now become the matter of their diviſions, while each gives it the ſence, that ſuits his own deſignes, contrary to the expreſſions, and make

a *Covenant*

a *Covenant* with God in words, that may delude men.

They ſay, *During theſe diſtractions, (and by what meanes is ſufficiently known) an eigth addreſſe was made him, contrived by his partie, the votes of non-addreſſes revoked and Commiſſioners ſent to the* **Iſle of Weight.**

If actions in Parliament may be the contrivance of a partie, and by factious meanes, as they inſinuate, why have they all this while accuſed the King for making warr againſt the Parliament, and refuſing their addreſſes, when theſe acts againſt him, and addreſſes to him were contrived by a malignant faction againſt him, Why may he not do in the one caſe, as themſelves in the other? And why are the votes of non-addreſſes more the actions of the Parliament, then the revocation of them? And how ſhall the King know how to treate, or the people how to diſcerne, which is the Parliament, which is the faction, if they be the ſupreame power, as they pretend, when ſome of their actions are the acts of one party ſome of another? Once its certaine from hence, theſe declarers are but a partie, and not the Parliament. All members of Parliament are the Kings ſubjects, and ſuch, as are not of his partie, are traytors by the laws, and here by we may judge, wherefore members were ſuppreſſed, and impriſoned, and that it proceeded from this bloody faction.

But they ſay, *Inſteede of yeilding to their juſt deſires, while they were treating for peace, he was plotting to raiſe a new warr, and his two eldeſt ſons were in open hoſtility.*

If the deſires were juſt, why do they compline, they were contrived by his partie? And if his MAJESTIE had yeilded to ſo much of them, as was by their own confeſſion a ſufficient ground for peace, they muſt confeſſe themſelves guilty of his blood, as they were of all the reſt, that warr had shed? But there is an appearance of the vanity of their pretences in every period, that would make it a crime for

the King to ſeeke his libertie during a treaty, when themſelves would not yeild to a ceſſation of armes, nor forbeare any other their rigorous proceedings during the ſame treatie; And among enemies, where ceſſations not agreed, hoſtilitie proceeds, though a treatie be on foote: And though themſelves perfidiouſly, and contrary to the treaty ſurpriſed, and murthered their King, while it was on foote, they shame not to charge him with unjuſt hoſtilitie for ſeeking to prevent it.

They ſay, *Vpon all theſe, and many other unpararel'd offences, upou his breach of faith, of oaths, and proteſtations, upon the cry of the blood of Ireland, and of England, upon the teares of widdowes, and orphants, and childleſſe parents, and millions of perſons deſtroyed by him, let all the world of indifferent men judge, whether the Parliament had not ſufficient cauſe to bring the King to Iuſtice.*

All the world of indifferent men muſt judge, that if all the falſe allegations were true, and their impertinent clamours ſubſtantiall, yet it was not ſufficient cauſe, but a barbarous crueltie, and unnaturall uſurpation for the Parliament being taken for one, or two houſes to bring their King to juſtice, for they are his ſubjects, and have no power, but under him: But for a peece of that aſſembly upon falſe ſuppoſitions, and for ſelfe ends to act rebellion, and the higheſt of treaſons upon their King by the name of juſtice, ſubverts the courſe of nature, and is a defiance to religion, reaſon, and all inſtitution of government.

They ſay, *It was the laſt Kings aſſertion, that thoſe high places were accountable for their actions to none, but God, whoſe anointed they are, from whence it muſt follow, that all the men of this Land were only made for the ſake of that one man, the King, for him to do with them, what he pleaſeth, as if they had been all created for no other purpoſe, but to ſatisfie the luſts, and to be a ſacrifice to the perverſe will of a Tirant.*

Though Kings, and ſupreame Governours are accountable to none but God only, yet if followeth not from thence, that

that all the people were made for the ſake of that one man, but ſuch a condition in the King is of abſolute neceſſitie for the peoples good; And if the people were to take account of their King, it muſt neceſſarily follow, that everie ſubject muſt be a King, and every Kingdome would become a forreſt of wilde beaſts, rather then a ſocietie of men; And the worſt degeneration of a King into a Tirant would not be ſo intolerable, as ſuch multitude of Auditors of their Kings account. If theſe men would place this power of receiving accounts from the Supreme Governour in any ſubordinate Magiſtrate, or in any Aſſembly convened by the King, it would appeare oppoſite to ſence, and reaſon, that the ſubordinate, and derived power should become the ſupreame; And no orderly Aſſembly of ſubjects can exceede the limits preſcribed them by law, and theſe men have not the leaſt colour, that there is any ſuch power of confuſion in any convention by the laws of *England*: All houſes of Parliament have ackowledged, that they are called by the Kings writ, & ſit by his authority, and that they are only called to *Conſult*, & *Adviſe*, not *Command*, & *Determine*; And this blacke Parliament (which theſe men would have continue) was ſo farr from denying this aſſertion, that in the Declaration of the 19. May 1642. they tell the people, that if they should ſay, that all the ill things done of late in his MAJESTIES name, have been done by him ſelfe, they should neither follow the direction of the law, nor the affection of their own hearts, and ſome of the penners of this Declaration had their fingers in that, and well know the falſe hood, and diſloyalty of their ſlanders of the King, and that it is not only inconſiſtent with the dutie of ſubjects to queſtion him, as criminall, but deſtructive to government it ſelfe. And if any perſons in a ſtate were appointed to take an account of their Kings actions, either they muſt be unaccountable, and ſo it may be equally affirmed by theſe declarers argument,

that all the reſt are created for no other purpoſe, but to ſatisfie the *Luſts*, and be a *Sacrifice* to the *Perverſe will* of theſe *Tirants*: And if they will ſay, that they are accountable to the people, then government is diſſolved, and no man bound to any thing, but his own will, for every man hath then a freedome, whether he will conſent to any thing, that the reſt determined, the conſent of a major part being no rule of right, nor hath any obligation, but by civill agreement, and conſtitution. In that Declaration of the 19. of May they have likewiſe theſe words; We his MAJESTIES loyall, and dutifull ſubjects can uſe no other ſtile, according to that maxime of the law (the King can do no wrong) but if any ill be committed in matter of State, the Councell. If in maters of juſtice, the Iudges muſt anſweare for it, ſo as this very aſſertion hath had the approbation of Parliament in the times, when their diſaffections were fully manifeſted againſt the King. In the beginning of the raigne of King Henry the VII. there was a queſtion moved, how the King could call a Parliament, having been attainted of Treaſon in the time of his Predeceſſor, and it was reſolved, that the crown tooke away all incapacitie, he being ſubject to no Iudicature, and this hath been the foundation of all government, and theſe uſurpers practice it, for if they will profeſſe themſelves accountable, they will ſoone find a sharpe audit; But this shews their diſaffection to Monarchy, rebellion againſt their King, and the cauſe of their warr to be in themſelves.

They muſt aknowledge, that the Kings appointed by God himſelfe were accountable to none, and yet diverſe of them forgot their duty to God, and care of the people, will theſe men therfore ſay, that God created all the people for no other purpoſe, but to ſatisfie the luſts and to be a ſacrifie unto the perverſe will of a Tirant? It is ſaid in Scripture, *Where the word of a King is, there is power, and who may ſay unto him,*

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*what doſt thou?* It is Gods command, *thou ſhalt not ſpeake evill of the ruler of thy people*, though he proceede againſt the law, and that we ſhould not ſpeake evill of the King, no not in our thoughts, and where evill thoughts are forbidden, reproaches, and violences are damnable.

And yet, they ſay, *This will not eaſily be beleeved to be ſo ordaind by God, who punisheth, but never eſtabliſhed injuſtice, and oppreſſion, whome we find offended, when the people demanded a King, but no expreſſion of his diſpleaſure at any time, becauſe they had no King.* Such an unaccountable officer were a ſtrang monſter to be permitted by mankinde, but this doctrine is better underſtood by the preſent age, then in former times, and requireth the leſſe to be ſaid in confutation of it, it being enough to confute it ſelfe.

Though God punish oppreſſion by an oppreſſor, he doth not therfore approve one more, then the other, he permits one ſin for the punishment of another, and punisheth both. Though God gave a King in his rage, he doth not therfore eſtablish his injuſtice, and he neither approveth the acts of Tirants, nor rebellions of people, though he permit both. Becauſe God punisheth injuſtice, he doth not therfore make every man the Iudge, for ſo all juſtice would be turned into private revenge: And it is a certaine truth, that the ſupreame, and irreſiſtible power is ordained by God, and though he punish the ſins of the Ruler by waies appointed in his own ſecret Councell, yet ſubjects muſt not aſſume Gods Office, nor enter into his Councells. And God ſaies, that the blood of Cain should be revenged, though he were a murtherer of his brother, for it was murther in any, that killed him, which had not a calling therunto, and when private malice carries men againſt publicke dutie, though it be a punishment upon the Ruler, it is the ſin of the people: And God approves no more the peoples rebelling againſt a wicked King, then the crueltie of a *Tirant* upon an

innocent

innocent *Martyr*, though he permit both for the punishment of the one, and tryall of the other. The Iudges of Iſraele before their Kings were of extraordinary miſſion, not hæreditary ſucceſſion, and had regall power, and ſome of them the Kingly title, as *Moſes* is ſaid to be King in *Ieshurun.*

The Iſraelites deſired a King of Samuell their Iudge, or Governor, they tooke not on them to make one by their right, much leſſe made way for it by the blood of their ruler, as theſe men. God was offended with the Iſraelites for their rash, & undutifull demand of a King, which was to change their government, and therfore rebellion againſt God, having neither required of him, nor his Prophet Samuell, but there can be no collection from thence of Gods diſlike of Kingly government, who had diverſe hundred yeares before ordained laws by Moſes for their King, when they should have one. He was pleaſed to typifie the Saviour of the world by the Kingly Office, preſcribed rules for the peoples obedience to them, and commanded his Prophets for the comfort of his people to foretell, that Kings should be the *nurſing Fathers of his Church.* And though God did not manifeſt his diſpleaſure, for that the Iſralites had no King, yet it is eſpecially obſerved by the Spirit of God upon occaſion of the great corruption of manners, and decleuſion to idolatry among the people, that it was in thoſe daies, when there was no King in Iſraell, but *every man did, what ſeemed good in his own eyes*, and therfore theſe men will charge evill, and abſurditie in Gods commandements, and that it were monſtrous in mankinde to permit, what he approved, ſo high doth their corrupt inclination carry them, that they exerciſe their blaſphemous Rhetoricque againſt God himſelfe, and ſubject his ſacred revelations in Scripture to their private lying Spirit.

It is no wounder, that men, ſo debautched in religion, and pietie, should meaſure all men elſe by their own corrupted

fancies,

fancies, & thinke, becauſe themſelves are grown shameleſſe in their aſſertions, other men are grown ſtupid in their underſtanding; doubtleſſe this doctrine of obedience is better nnderſtood now, then in former times, although all the arguments, which theſe men have brought againſt it, were long ſince alleaged by *Buchanan*, *Knox*, *Mariana*, *Suarez*, and others, whoſe opinions were confuted, and deteſted, and ſome of their Bookes burnt by publicke Cenſure, and the preſent times are more fully confirmed in their judgement againſt that damnable doctrine of rebellion by the horrid conſequents in the actions of theſe men, with are enough to make any opinion, on which they are founded, odious,though it were otherwiſe doubtfull, and the doctrine of obedience, and that Kings are accountable to none but God, ſtands firme, not only in the grounds of reaſon, and neceſſitie for the preſervation of mankinde, but on that ſure foundation the word of God: But theſe men muſt maintaine rebellion to be lawfull, or themſelves guiltie.

They ſay, *For the phraſe of anointed, no learned Divine will affirme it to be applicable to the Kings of England, as to thoſe of Iudah, and Iſraell, or more to a King, then to every other Magiſtrate, or ſervant of God, or that the words of touch not mine anointed were ſpoken of Kings, but unto Kings, who were reproved, and enjoyned to do no harme to the Prophets, and Saints of God, there underſtood to be his anointed.*

It were an unneceſſary ſcruple to deny the phraſe anointed to the King of England, if the Kings of Iudah, and Iſraell, that had it, were accountable to any, but God, and if they were not, its a prophane preſumption to ſay, that ſuch a monſter was not to be permitted by mankinde. Though this doctrine of obedience do not depend upon the phraſe of anointed, yet there is no learned divine, that is not corrupted with ſinfull engagements, and depraved diſpoſitions, but will affirme, that the phraſe of anointed is applicable to the rightfull Kings of England, as well, as to thoſe of Iudah,

and Iſraell, for although ſome of them were deſigned by ſpeciall revelation, moſt of them ſucceeded by naturall generation. And God ſayeth, *by me Kings raigne*, which no learned Divine will confine to the Kings of Iudah, & Iſraell only, and that power, which the anointing gave them, was of abſolute neceſſity for the peoples good, and therfore it cannot be affirmed, that God hath denied it unto any rightfull Kings, and this exception of other Kings from the authoritie of the Kings of Iſraell, and Iudah, ſhews, that the evidence of holy Scripture is undeniably againſt their proceedings, and therefore they will not be judged by inſtances from Scripture, as if they had a better rule, and that God had denied libertie of rebellion to the Iſraelites, and permitted it unto them, and that the Kingly power, by Gods inſtitution, not only wanted of juſt right, but was an intollerable tiranny. The new teſtament hath as plentifull proofes of Gods revealed will for obedience to Kings, though at that time perſecutors, and enemies to his truth; as any are contained in the old: And it is not the outward ceremony of anointing, but the legall right, that makes a King Gods anointed. That anointed was as applicable to any other Magiſtrate, as unto Kings, they do no where find, though the giving of the Spirit of God be ſometimes called an anointing in reſemblance to the anointing of Kings, but we are ſure its properly attributed to them, and ſo its uſed by the Prophet *David* of *Saul*, *who can touch the Lords anointed, and be innocent?* Though he were a wicked King, and *Samuell* ſaid of the ſame *Saul*, *behold the anointed of the Lord.* And all violence, and injurie to Kings is reproved by that name of touching the Lords anointed; and theſe diſputers, that ſay, that the word anointed was as applicable to all Magiſtrates, and ſervants of God, as unto the Kings of Iſraell and Iudah, deny it to be equally applicable to their own King. The Spirit of God hath made an expreſſe diſtinction betweene the ſupreame

preame power, and the ſubordinate Magiſtrate, it being the language of Scripture, *To be ſubject unto the King, as ſupreame, and unto Governours, as ſent by them.* And if the terme of anointed do belong to ſubordinate Magiſtrates, and that therfore they muſt not be touched, much more to Kings, by whom they are ſent: And their endeavour to apply this name of anointed unto others, beſides the King, doth no way leſſen the duty of his ſubjects to him, but more certainly fix the title on him.

To the Objection, *That to bring a King to triall, and capitall punishment is with out preſident,* They anſweare, *So were the crimes of the late King, and certainly the children of Iſraell had no known law, or Preſident to punish the Benjamites for their odious abuſe of the Levites wife, yet God owned the action.*

This impudent ſlander is offenſive to all ſober eares, and apparent to have no ground of truth, being framed to proportion a pretence for their villany, which they confeſſe unexampled: And among all theſe imaginary offences, which they have ſet foorth, they have not the leaſt colour to call one unexampled, and for their example of the Benjamites, their offence was a known rebellion, reſiſting the command of thoſe, that governed at that time, for each Tribe had not a government a part, but were all under one Ruler; And though they had wanted all law, and Preſident, yet asking Councell of the Lord by Phineas the Prieſt, and receiving his immediate command, there neede no other law: There are ſome mad Enthuſiaſts among theſe men, that pretend revelations, theſe declarers might as well rely upon their fantaſticall dreames, as the falſefyinge of Scripture. Almighty God doubtleſſe owned the action, he had commanded, and had not the rebellion of the Benjamites been ſo apparent againſt the Civill, and Eccleſiaſticall Government, nor the ſin of the men of Gibeah, whom the Benjamites aſſiſted, ſo monſtrous, yet there had not wanted

law for punishment, where there was a particular command from the mouth of God. Though a wickednesse have lesse excuse, that wants example; yet the guilt of it is manifest by transgression of the rule, and though these men could produce examples of outrage, and popular licence, yet that makes not the action lawfull, neither can an unexampled wickednesse warrant private, or tumultuary revenge, nor justifie any mans attempt, that is not lawfull authorized by civill constitution, or speciall revelation, both which these men want.

They say, *There wants not president of some of his predecessors, who have been deposed by Parliaments, but were afterwards in darkenesse, and in corners basely murthered; This Parliament held it more agreable to honour, and justice to give the King a faire, and open tryall by above an hundred gentlemen, in the most publicke place of justice, free (if he had so pleased) to make his own defence, that part of his crime being then only objected against him, of which the Parliaments of both his Kingdomes had by their joynt Declaration formerly declared him guiltie.*

The late blacke Parliament professed a detestation of these presidents, and disclaimed those Assemblies, as being no lawfull conventions, & their proceedings no Parliamentory actions; And if they had not, the histories, and records of that time shew the wickednesse of the contrivers, and that those, that then tooke the name of Parliament, were but Cyphers to be disposed of at the pleasure of the usurpers; Yet these presidents, that are only the facts of wicked *Traytors*, and which no age approved of, these men produce, as authenticke examples, and there is no act of usurpation, or wickednesse, but may be produced for president, as well, as those, they mencion, and they may as lawfully be basely murthered in darkenesse, and in corners by those presidents, as so deposed, both being acted for the same ends, and with the like illegallity, and the darkenesse, and corners, wherein those villanies were done, do not make them murthers, but

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the want of authoritie for doing the actions; And if they had been done openly, and by forme of juſtice, it would not have altered the fact, but manifeſted the shameleſneſſe, and obduration of the Actors. Abſolons inceſt was more monſtrous, becauſe done in the ſight of all Iſraell, and before the ſunn, and therein exceeded the crime of Davids ſecret adultery, and murther.

That the Parliament had neither power, nor pretence to bring the King to juſtice, is evident to all not willfully, or invincibly ignorant: No Aſſembly, or Iudicature can act beyound what the law of that ſtate hath given them, and its utterly impoſſible, that they can have any juriſdiction in the Parliament of England over their King, being his ſubjects, and therfore incompetent Iudges. Parliaments were inſtituded by Kings, and by their grants all Lords in the upper houſe have their places, and Townes the liberty of ſending Burgeſſes to the lower, they cannot meete without the Kings writ, nor ſtay longer, then he pleaſeth; All that they do in Iudicature, is done in his name, and under his authority. And did theſe men beleeve, as they pretend, that the Parliament hath power to bring their King to juſtice, they muſt be Idiots, and fit to have Tutors, rather then governe, or mad men to be reduced by chaines, and ſtripes: But the malice of theſe men offers theſe groſſe arguments to deceive others, not that they are deceived by them themſelves, and God will in his due time make their punishment as open, as their wickedneſſe. The Iudicature in Parliament over the ſubjects in ſome caſes belonged unto the houſe of Lords, the houſe of Commons never claimed more, then to *Impeach*, and *Accuſe*, not to *Judge*, or *Condemne*: This was the law, and practice, not only in the late blacke Parliament, but in all times before, and their proceedings were confined by law. They had no meanes to *Judge* a cauſe, for they could not give an *Oath*, whereby the

truth of an act muſt be decided. Theſe thruths are as apparent, as the light, and theſe men will call light darkeneſſe in deſpight of their own ſence. And beſides the want of all colour for ſuch a power in both, or either houſe of Parliament, theſe men have not the leaſt pretence to be either of the houſes, and are therfore very farr from being the Parliament. The Lords houſe they have totally ſuppreſſed, and pretend not to its conſent in this action; And the Commons houſe they have violently diſſolved, not only by their Treaſon, but their excluding, & impriſoning the members, and forming themſelves into a private *Conventicle*. It were ſtrang, if men, that had plunged themſelves in ſo many villanies againſt their judgement, and conſcience, should have any ſence of honour, or juſtice in bringing their King into a publicke place in forme of a tryall; But as they follow the wicked preſidents of ſuch Tirants, as uſurped unjuſt authoritie, ſo to confirme their authoritie, and ſatisfie their pride, and revenge, they only regarded the *Meanes* moſt conducible to it, without regard to the *guilt*, and *inhumanity* of the action; Therfore they bring forth the King thus publickly to make the Royall MAJESTIE contemptible to the people, and to glut themſelves with beholding his ſufferings. It was a bitter affliction to the Prophet David, *When the very abjects came together againſt him*, and holy Iob reckons it among his greateſt afflictions, that he was deſpiſed by thoſe, *Whoſe Fathers he would not have ſet with the doggs of his flocke*. Theſe hundred Gentlemen, that they ſay, were appointed to try him, were deſtitute of all authoritie, having no commiſſion but from thoſe, that had none to grant, nor could delegate what they pretended to have, for the members of the Commons houſe are perſonally truſted for the purpoſes, whereunto they are called, and it is againſt the nature of their commiſſion, and the law, to transferre their truſt; And the rebell Kett, and his companions in the

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time of King Edward the VI. had as much authoritie to hold a Iudicature under their Oake of Reformation, and to condemne, and execute ſuch, as they judged offenders, as theſe hundred Gentlemen, the moſt part of which, though thus ſtiled, are known to be baſe Mechanicks, and incompetent for their qualitie to judge the meaneſt ſubject, and having profeſt as much ſpite, and malice againſt their King, as humane nature was capable of, might be proper Aſſaſſins for villany upon him, never Iudges of him. All lawes diſable enemies from being Iudges, and yet its here called juſtice to appoint ſuch a packe of blood ſuckers to condemne their King, who muſt accuſe, and condemne themſelves, or him. This publicke triall, which they ſay, They thought more agreable to honour, and juſtice, filled all men with horrour, and ſhame at the injuſtice of theſe Gentlemen, & dishonour of the King, and there was never ſo diſmall a ſpectacle preſented to the eyes of men concerning a meere man, as this Theatre of theirs in the condemnation, and execution of their King, which exceeded in crueltie thoſe private Aſſaſſinations, afflicted ſo many with ſeeing ſuch wickedneſſe, & debaucht ſo greate a number, that aſſiſted it. It could not be expected, neither was it by theſe men, that the King would make any defence before them, who were reſolved to condemne him before they heard him, and that theſe declarers forbeare not to affirme, for they ſay, *That he was charged with that, of which the Parliaments of both Kingdomes, had declared him guiltie,* and therfore theſe perſons, they choſe were to performe a ceremony only being not permitted to contradict ſuch, as deputed them.

The factions in the Parliaments of both Kingdomes declared their injuſtice, as well, as their treaſon, in declaring their King guiltie of crime, the end thereof being to colour their own rebellion, but the Parliament of *Scotland* could not meddle in judging a fact done in *England*, and they proteſted againſt

againſt the proceedings of theſe rebells with their King. Declarations of Princes in times of hoſtilitie, and for juſtification of their warrs, are no convictions of their enemies; But declarations of ſubjects againſt their King are undeniable treaſons, and infamous libells, to which its a crime to give credit: And though Princes in the higheſt hoſtilitie draw not their captive enemies to their Tribunalls, being by the laws of nature, and Nations incompetent Iudges, yet theſe men being ſubjects, and rebelling againſt their King, do draw their King to juſtice, though he were a King of other dominions, for making the warr; And any Prince in hoſtilitie with ſubjects, or others, may by this Preſident be ſo proceeded with in caſe he be a Captive.

*With his offences*, they ſay, *were joyned all a long a ſtrang obſtinacie, and implacableneſſe, and inceſſant labour for the deſtruction of his people, which (with the unerringe truth) wherein is no diſpenſation for Kings, that no ſatisfaction ſhall be taken for the life of a murtherer, but he ſhall ſurely be put to death; and that the Land cannot be cleanſed of the blood, that is shed therein, but by the blood of him, that shed it, brought on, and effected the worke of Iuſtice upon him.*

Though it be known to the whole world, that theſe Traytors at all their faind Treaties with the King, never abated of the rigour of their demands in the leaſt meaſure, yet they add this ſlander to the Kings charge, by whoſe large conceſſions they made their greateſt advantage againſt him, who ſtill endeavoured by his condeſcentions to give the utmoſt ſatisfaction, that might ſtand with honour, and conſcience; But men, that make ſuch wicked demands will not ſticke to call the refuſall obſtinacie.

It is the peculiar brand of Traytors to shame at nothing, we have an inſtance in our own Kingdome of Richard the III, that made his title by the pretence of whoredome in his own Mother, and cried out of wicked intentions againſt his Perſon, while he contrived the murther of his innocent nephews;

nephews; And theſe men frame allegations of crimes never acted, but by themſelves, and call neceſſarie deinalls ſtrang obſtinacie, & implacableneſſe: It is not the Kings crime, but their malice, and ambition, that effected this bloody worke of injuſtice upon him; The unerring truth, which they pretend, doth ſufficiently teach them, that God hath not permitted every man to be a Magiſtrate, though no ſatisfaction ſhall be taken for the life of a murtherer, nor extended the juriſdiction of any Magiſtrate, either for Territory, or perſons by that præcept. The command is given to Kings, and ſuch, as have the ſword by civill conſtitution, and though Kings commit crimes, their judgement is with God, not man, though God denounced judgement againſt David for his murther, and Adultery, that the ſword ſhould not depart from his houſe for ever, his ſubjects could not execute that punishment on him, and though God ſaid, he would raiſe him up an enemy out of his own houſe, his ſonne Abſolom had not thereby a power to rebell againſt him, and though God brought a plague upon the Land for his ſin, the people could not punish him to cleanſe the land, & though Saul were a murtherer, no man could touch him. They would have all ſuch, as they killed in the warr, murthered by the King, how groundleſſe the cauſe was on their part, and how mercileſly they proſecuted it, is long ſince known to the world, by their own declarations, and how Unchriſtianly they charge the King with murther upon that occaſion, for their own juſtification, their conſciences tell them, and the Kings inceſſant deſires of peace, and his extraordinarie compliances, ſhew, how oppoſite he was to that temper, which they object, of obſtinacie, and implacableneſſe, and this Declaration teſtifieth their inveterate malice after the cruell murther of him, to perſecute his name, and honour in the grave.

*The King being dead*, they ſay, *The next conſideration fell upon his*

 *children*,

*children, from theſe branches could be expected no other, then the ſame bitter fruite, which fell in the raigne of the Father, who had engaged them in his own waies, and quarrell, & the two eldeſt ſo early appearing in actuall armes, and hoſtilitie againſt the Parliament, no more ſafety, or ſecuritie could be hoped for from them, then from their Predeceſſor, nor in humane probability; as affairs then ſtood, any ſafe way for a ſure peace, and prevention of future troubles, but by taking away the ſucceſſion of that, from whence they ſprang, and would ſpring againe, if permitted.*

The King being dead, there could be no continuance of a Parliament in *England*, all Parliaments expiring by the death of the King, and this is not only the known law, and conſtant practice, but the contrary impoſſible, the head being the principall part, where of it conſiſts, and though it were indiſſoluble by the act of man, yet its determined by the act of God, and that act, which prohibits its diſſolution, doth not conſtitute new parts, for if it did, the power of the lower houſe muſt be at an end, their commiſſion being for the Parliament, as it then ſtood eſtabliſhed by law; And ſince his MAJESTIES impriſonment they have deſired a power to adjourne themſelves in reſpect of place, ſo farr were they in their own judgement from the ſupreame power, who will now be immortall for extent, & duration. Its no wonder, that from that impudent claime of the Parliaments power to bring the King to juſtice, a fagg end of the lower houſe ſhould ſay, they were the Parliament; And as there have been impoſters, that counterfeited dead Princes, that were murthered privily, or died obſcurely, ſo theſe men amongſt the confuſions of Parliament are confident, that no man knoweth what it is, and ſo they may be it, and their word is their evidence, and their will their law. If they had regarded law, or conſcience, their firſt conſideration ſhould have been to ſeeke the pardon of God for their hainous Treaſon to their King, and have ſubmitted themſelves to his ſonne, and lawfull Succeſſour, but they

muſt

must continue on pursuing those maximes of mischiefe, which bloody Tyrants have taught, and practised for establishing their usurpations; We may easily discerne, that this rabbell of slanders, which they had raked together, was no part of their motive against him, but their own ambition, and hatred of the government, for they will roote out, not only his whole race, but the line of all their Kings, though many of them are Princes, of whose vertues themselves have professed honour, and admiration. They impiously talke of *branches and bitter fruite*, as if they would give laws to God himselfe; But as the scandall carries with it malice, and falshood, so themselves acknowledge, that it is not for personall merit, but for their own securitie, that they thus seeke to disinherit the whole Royall progeny, and having killed, and got possession, they would secure it by destroying the heirs; The quiet enjoying of their Stolne Soveraignty, they call peace, but *There is no peace*, sayeth God, *to the wicked*. The disinheriting of lawfull heirs is a foundation for trouble, and warr, and certainely, if there be any sence of honour, or conscience the *English* Nation can never calmely submit to the yoake of such impious, and unworthy wretches, as now tyrannize over them, nor falsifie their allegiance, and Oaths unto their lawfull Princes. Though there are rebellions under Monarchs, yet not so frequent, as in other formes, neither do they arise so often from the sins of their Ruler, as the unbridled fury of the people, or the acts of seditious Incendiaris: But this objection is not personall, nor belonging to the Kings of *England* alone, but to all Kings, and was the ground of all the calamities of this unhappy Nation. They goe about to persuade the world, that they have said much for themselves, when they have declaimed against Monarchicall Government, and would have themselves beleeved to be the revealers of some new truths to the world, which are the common fallacies of re-

bells in all ages, or ſome ſcrappes taken from the common diſputes in the ſchooles, where men ſeeke to commend the forms of government, that ſeeme beſt in their judgement, whereof there never wants varietie, or according to intereſt.

*The Objection*, they ſay, *Is obvious of injuſtice to diſinherit thoſe, who have right, and title to the crown, that the elder right is the peoples, whome they claime to governe if any right, or title were in the eldeſt ſonne, the ſame is forfeited by the Fathers act; In other caſes even of offices of inheritance, which being forfeited for breach of truſt (a condition annexed to every office) none will deny, but that the ſame excludeth the children, as well, as the Officer, but heere the eldeſt ſonns levied warr againſt the Parliament, & it cannot be alledged, that the younger, children were borne to any thing.*

To an obvious Objection they make a perplexed, and impertinent anſweare, whence the people have the elder right they should do well to demonſtrate: A multitude of people without laws, and Governour have no joint right at all, everie man having a particular libertie, and the reſidue have no power over him, and it is no more lawfull, but as poſſible, that many may oppreſſe one, as one many, their ſubmiſſions to government are by ſingle obligation, there being no obligation to a major part by nature, but by law, and agreement, and the whole people have no more an elder right, then every particular man; The whole people being looſe from rules of goverment can act nothing but what every ſingle perſon can do; This inhumane Doctrine, *That the people are the ſupreame power*, hath not the leaſt colour of truth, nor validity to prove thoſe conſequents, they draw from it. There are other beginnings of government as well, as the peoples conſent, and in ſuch, as have begun by the peoples ſubmiſſion, if the people entire, or divided ſhould expound their own obedience, in vaine were the laws, præcepts, and commands of ſubjection; And if the people

people were looſe of all obligations of faith, & duty in civill ſocieties, all promiſes, and Oaths were of no effect, nor any bonds to preſerve mankinde. Among many of their abſurditys it is not the leaſt, that they do pretend a forfeiture of the Kings right, they well know, that all forfeitures are by municipall conſtitutions, not by nature, and no man can affirme, that the King can forfeite his crown by the laws of *England*, or that there are any forfeitures to the people, or Parliament, and it were as ridiculous, that he should forfeite it by the laws of nature, when there is no capacity to whome it should be forfeited, for the multitude, or people, having no conſtitution by law, are incapable to receive it by nature. *Children cannot be punished for the fact of the Father.* But they will have the law diſſolved to make way for rebellion, and they will apply the puni-hment of laws determined upon him, that could not be punished by them, were they of force. Its all one, whether the two eldeſt Sonns had been in warr againſt the Parliament, or not, for they might have as well excluded them, as the reſt without a cauſe; The reſt of his MAJESTIES children were borne to a right of ſucceſſion, as well, as the others; Warr againſt the Parliament imports nothing, if it be not made againſt the King, and his MAJESTIES warr, wherein his two eldeſt Sonns were ingaged, is manifeſted to the world to be againſt the moſt malicious, and unprovoked rebells, that any age hath produced: And their childish shifting, in pretending forfeiture and breach of truſt, shews the weakeneſſe, and falshood of theſe grounds, whereon they have erected their uſurpation.

They ſay, *The ſame power, and authoritie, which firſt erected a King, and made him a publicke Officer for the common good, finding him perverted to their common calamity, it may juſtly be admitted at the pleaſure of thoſe whoſe officer he is whether they will continue that officer any longer, or change that Government for a better, and inſteade of reſtoring tiranny reſolve into a Free State.*

Their terme of officer is too frivolous to misleade any man, as if the King were the subjects officer, and they, that are sworne to obey him, might command him, and so the Master is the Servants officer: Kings no doubt are for the common good, & it is for the common good, that violence to their Persons (though they be wicked) is forbidden, and should violence be lawfull against Princes upon any pretence, that pretence would be held foorth by every rebell; And these men call the Kings very office, tiranny, and to chang for the better, they say, is the cause of their present warr; Government is of absolute necessitie for the peoples good, and the people can no more rebell against it, then be with out it, and invaine doth the Scripture command, *Obedience to the* King, *as Supreame*, if the Supreame power be in the people; Were it admitted, that a King were elected by the people, it followeth not, that, if he be perverted, the people may chang their Government, but the contrary; For first, it is contrary to the nature, and ends of government, that the peoples obedience should depend on their own will, and judgement, Secondly, The judgement of actions is subject to variety according to mens abilities in discerning the reasons of them, and it cannot be a boundary for government, which is so nncertaine. Thirdly, The people are incompetent Iudges of such actions. Fourthly, Their convention must needs be uncertaine, and tumultuous, and the execution of such a power confusion. Fifthly, Their meeting is rebellion, and a breach of the established laws, for they assemble togeather before examination of purpose to destroy the government, and Governour without judgement, or hearing. Sixthly, The ingratitude of the multitude towards such, as have preserved them, their lewdnesse, and levity in their discontents at the present, and the many groundlesse, and bloody calamities, that have risen from such attempts have instructed all knowing men to prevent such rebellious

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Barbariſmes. There is leſſe difference between tiranny, and their government, ſthen there is between a Monarchy and a Republicke, for theſe men do profeſſe to have, and actually exerciſe what ever power, they call Tiranny, upon the perſons, & eſtates of the people, and all that Freedome, which their Free State shall enjoy, is a libertie in theſe men to do what they pleaſe: Their *Exciſes*, *Impoſitions*, *Contributions*, and *Loanes*, themſelves will ſay, do tranſcendently excede whatever any or all the Kings of *England* ever had, or demanded, notwithſtanding their greate actions at home, & abroad. They shut up all the Courts of juſtice at their pleaſure, & take away mens lives, denying them that triall, which is their birthright, and inheritance. The people juſtly deſerve this baſe ſlavery, if they diſcerne not the difference to live free ſubjects to a lawfull Monarch, from this Unfree State nnder upſtart Tirants, nor how groſly theſe juglers play hocus pocus, flattering them with a power over their King, but denying it over themſelves, voting the Supreame power to be in the Commons in Parliament, & themſelves the Parliament, ſo as their ſervitude muſt be remedileſſe, and endleſſe.

*Heerein*, they ſay, *The Parliament received incouragement by their obſervation of the bleſſing of God upon other States; The Romans after their Regifugium for many hundred yeares togeather proſpered farr more, then under any of their Kings, or Emperours.*

Thongh the people, that live under any Government, thinke another better, they may not by violence effect the chang againſt the will of their Rulers, nor one part force another to ſubmit to a new government, though for the better, for it is a diſobedienee to their Rulers, whom they are bound to obey, and tiranny upon their fellowes. It was ſin in the Iſraelites to be like other Nations in having a King, being a rebellious inclination, much more wicked is theſe mens bloody action to be like other Nations in a Republicke.

Their

Their ſcurrilitie in reproaching Monarchicall Government making Monarchy, and tiranny to be the ſame thing, is injurious to all free Princes, and a fruite of that bitter roote of treaſon againſt their own King, whereby they would invenome all ſubjects againſt their Princes, a Treaſon againſt mankinde, and inconſiſtent with amitie, or peace. Monarchicall Government ſtands upon a ſurer foundation, then trayterous Axiomes of confuſion can shake; And though we may not out of affection to Monarchy reproach other formes of Government, as theſe do Monarchy, yet we will obſerve the weakeneſſe of their reaſons, drawen from the condition of ſome Republiks, which neither juſtifie their cauſe, nor prove thoſe formes of government neceſſary to thoſe places, that are under them, nor agreable to all others.

For the Roman State, which is their firſt inſtance, if we looke upon the inſtitution of their laws, and foundation of their greatneſſe by their firſt Kings, it will not be hard to beleeve, but that government by Kings, if it had continued, would have brought on their greatneſſe faſter, then the chang, and though their conqueſts were great, their diſſentions were frequent, and bloody, and the ſtem of their government was too weake for the topp, ſo as ſuch excellent Perſons, by whoſe valour, & conduct their eſtate was raiſed, were in truth allwaies Maſters of it, and at laſt tooke it in their full title, and poſſeſſion; Doubtleſſe their Emperours encreaſed, and preſerved their ſtate for many ages, which the former government would not have performed.

If they had well weighed the miſeries of the Roman State by ſuch popular Reformations, as they now pretend, & how often the ſtreetes ran with the blood of the Citizens upon ſuch occaſions, & how lightly they were carryed to their own ruine under the falſe pretences of libertie, and to ſerve private ambition, they would not have been ſo fond of that condi-

condition: But they only make uſe of the example to ſet up themſelves, as thoſe Incendiaries in Rome did, without regard to that part of it, which concerned the peoples good. For the other States, they name, the encreaſes, they talke of, have proceeded from the time, diſpoſition of the people, and ſituation of the places, not from ſuch chang of government, as they imagin: For its will known, the Dukes of Burgundy, when they were owners of theſe Countries, they name, were equall in power to moſt Kings, and were able to ſupport themſelves without helpe of their neighbours: And the Kingdome of *England*, ſince that chang of the *Neitherlands*, hath received a proportionall encreaſe in ſtrength, husbandry, trads, and wealth, to what it was before: And whoever lookes upon *England*, in reſpect of its ſituation, and diſpoſition of the people, muſt conclude a Monarchy the beſt government for it, diviſion being more dangerous to it, then invaſion, and by the conſent of all Monarchy is the beſt remedy of that evill. Ambition, and claimes of ſucceſſion, which theſe mencion, are leſſe frequent in Monarchys, & leſſe dangerous, then factions, and partakings in Republicks: The adminiſtration of juſtice, and protection of the poore, is more for the intereſt of the King, then of the many, that governe in a Republicke and heerin the Monarchy hath no diſavantage: It is ridiculous, what theſe men pretend touching the Freedome of Conſcience, or Eſtate in Republicks, beyound that of Monarchy, when ſuch, as governe in Republickes, uſe the ſame laws for uniformity in Religion, and ſubjection of mens perſons, and eſtates, that Monarchy do, and theſe hipocrites have declared, that they will allow no man freedome of conſcience in uſing that Religion, which was eſtablished by law in the Church of *England* before their rebellion. That there may not be diſorderly perſons as well in a Republicke, as in a Monarchy, that afforde not their Servants, Tennants, or

Peaſants ſo good meate, or ſo much reſt, as to their doggs, or horſes, is a dreame of theirs, and shews, how little they know abroade, and how falſely, and maliciouſly they report of home; For in the time of our Monarchs, Tennants, Servants, and Peaſants enjoyed as much for reſt, and meate, as in any Republicke of Europe.

That, which was ſaid by a privy Councellour of the late King, of the common people in ſome Countries, where they were contented with canvaſſe cloathing, & timber shooes, and looked more like Ghoſts, then men, had been notoriouſly falſe, and injurious, if it had been ſpoken of all Monarchys; And where either the commodities of the Conntry cannot ſuffiſe all, or poverty of the perſons cannot reach to better, they muſt be contended with what they can attaine to; And experience shews there may be wealth in Monarchys, as well, as in Republickes, and povertie in Republicks, as well, as in Monarchys: That privy Councellour adviſed the then Parliament to avoide thoſe diſorders, which would make Parliaments odious, and the Kingdome miſerable, as theſe men have effected, but he knew very well, that it was neither the Kings intention, nor for his intereſt to make his ſubjects poore; And if taxes will make a Kingdome poore, *England* cannot be rich in the new Republicke.

*This*, they ſay, *was intended for the fate of England, and to bring this to paſſe beaſts of Forreſts muſt eate the poore mans corne.*

Permiſſion of the deere in forreſts is by act of Parliament, and theſe new Reformers are not yet grown ſo charitable to turne their Parks to releive the poore, or prohibit them in their Common wealth: But its evidence, of their groundleſſe rebellion, that make the uſage of Forreſts, that have been many hundred years ſince, to proceede from that advice of his late MAJESTIES Councellour, and that hath as much evidence of truth, as that the keeping of beaſts in

Forreſts

Forreſts was a deſigne of miſerie, or that caſuall treſpaſſes are publicke grievances: Forreſts are only in few places, and lands neere the Parkes of private Gentlemen are not exempt from ſuch Donnages, as come by them: In the Kings Forreſts there is allowance given in the ſetting, and ſelling of Lands, for conſideration of ſuch accidents, which extend to very few, and are not voluntary acts, but prevented with all due care; And their counterfeite embroyderie shews, they ſeeke to worke on paſſion, not ſatisfie reaſon, when they ſay, that to bring this to paſſe, that is miſerie, theſe beaſts of Forreſts muſt grow fat by devouring the poore mans corne, for want of which he, and his wife, and children muſt make many an hungry meale. Thus they crye to make others weepe. Is any man ſo brutish to beleeve, that a King would have his ſubjects corne deſtroyed, which was the ſupport of his Crown, or that any poore man would till corne, where it muſt be devoured? This is ſo farr from truth, that ſuch perſons, as they call poore men, dwelling in Forreſts, are known to be moſt unwilling to diſafforeſting: And theſe vipers would be underſtood to compaſſionate the poore mans hungry meales, that have made more poore then the Kingdome before contained, killing, & ſequeſtring the Parents, & tearing the bread out of the childrens teeth, and inſtead of hungry meales, enforce thouſands to perish with hunger, while they divide the eſtates of ſuch, as they have made poore, among thoſe graceleſſe robbers, that grew fat upon the ſpoile of the Kingdome.

*That poore tradeſmen are ill intreated by potent debters*, is a ſenceleſſe ſlander upon Monarchys, more then Republicks, and, that *the Kings Servants were priviledged from arreſts, untill notice given unto principall officers*, is not ſo much priviledge, as members of Parliament enjoy, & in *England* this priviledge of the Kings Servants was ſo moderate, as they can hardly bring an inſtance of a juſt complaint, And the prejudice could not be

great, when the Creditour knew the priviledge of the perſon, he truſted and might have forborne his truſt, or encreaſed his caution.

*Poore Watermen, and poore Contremen ſerve the King, at his price, which, if they can get,* ſay theſe men, *Is not enough to finde them bread, when their wives, and children have nothing, but their husbands labours to provide for them alſo.*

Its known to the world, that the Kings Reſidence enricht the places of his aboade, and therfore theſe reiterations of poore, and poore, are but their cheating Rhetoricke to make the people poore indeede.

The falſe dealing of theſe men with the world is agreable to their diſſembled charitie to the poore laborours: Is it not apparent, that what they ſay of men working at the Kings pay, may be equally, if not better, applied to all labourers, whoſe wives, and children depend upon their husbands gettings? Its a known truth, that the Kings pay is the beſt proportion, and never leſſe, then the law appoints, and the hire of the labourer detained, or diminished, is a more frequent crime in Private Perſons, then Princes: And if the condition of the Kings ſervice were ſuch, as theſe Impoſters would inſinuate, labourers of ſeverall kinds would not make ſuch frequent ſuite to be entertained in it, as they do?, nor their increaſe in eſtate would be ſo viſible, as it is.

That, which they call *The Exaction of the Court pourvoiance*, was a right by law, and in his late MAJESTIES time thoſe laws were ſo farr from being broken, as they pretend (for there is not one circumſtance, that may make an act evill, but they affirme) that the ſeverall Countrys agreed to pay certaine ſumms of mony in lieu of that duty being for the maintenance of his MAJESTIES houſhold, and it is ſo farr from truth, that the Countrys paid more, then their Aſſeſments to the army, as its known, that Countys

that payed not an hundred pounds a yeare for the pourvoiance, are aſſeſſed above five hundred pounds a moneth to the army.

*Theſe*, they ſay, *Are ſome of the grievances, which were obvious, not to the underſtanding only, but to the ſence of the grieved ſufferers:* What theſe grievances were, that were obvious to the underſtanding, and not to the ſence, they ſhould do well to explaine, unleſſe a people may be oppreſſed by imagination, as theſe men have made them miſerable by the fancys of a change: The truth is, they have made grievances, and ſufferers, by perſwading men to beleeve they were ſufferers, that had no ſence of it, and they never meaſured a grievance by the ſence, but by their diſaffections to Government, that repined at every act of their King, though it were moſt reaſonable, and neceſſary for publicke good: And this enumeration of theirs, which is the utmoſt, they could collect of any things like grievances, ſufficiently shews the great eaſe, and ſmall cauſe of complaint, the people of *England* had, and that the people of no Republicke in the world had ſo few, and ſo ſmall taxes on them, as they had.

*The vaſt expence in luxury, and prodigality* follow next, which they might have forborne to name, if they had looked upon the expence of meane perſons among themſelves, that by their rapines, and ſpoiles of the Kingdome exceeded farr the worſt of Courtiers, and in ſuch exceſſes more unbecoming their qualities.

It ſeems, that their Maſter workemen in their State Councell give way to their journey men of the lower Councell to enjoy their fancies, and to tell the world, that by their new platforme nature will be reformed, and that they will well chang the Seaſons, as well, as the Government: For their Preſidents well know, that thoſe waſts are the effects of peace, and plenty; And the Republicke

of Rome, for riot, and luxury in the time of their greatneſſe, exceeded the Perſian Monarchy; A Roman Senators coſt, and curioſity was not inferiour to a Kings Court, Thoſe Eutopicall Senators might have ſeen in their Republickes at preſent, that the nature of the people is not changed, nor nationall vices, nor ſins, attending proſperitie, taken away. The conſtitution of the Court of England is neither waſtfull, nor an occaſion of luxury, and the ſobriety of the Soveraigne gave checke to diſorders in the Servants.

They joyne hereunto, *The ſtanding ill-ordered diet for a number of drones*; And though it may ſeeme a fault to give a ſerious anſweare to ſuch impertinent railers, yet to prevent miſtake, its fit to tell them, that may otherwiſe be deceived by the shews of ſevere vertue, that theſe dyetts were not only an honour to the Kingdome, and fit for the MAJESTY of a Prince, but neceſſary for the publicke good; For they were the ſupport of the Miniſters of ſtate, and perſons of eminent vertue, and expectation for publicke employment, and encouragements, and rewards of merit; And it was the infelicity of his late MAJESTIE as well, as of ſome of his Predeceſſors, that ſome drones, and vipers had the benefit of ſome part of that, which was not intended for them; And thoſe, that did eate of his bread, have not only lift up the heele againſt him, but ſucked his blood, and now ſit among theſe declarers, and thinke it better to Lord it over the people, then ſerve their King, to whome they owed their eſtates. It is for the intereſt of Kings, that their Courts be purged of ſuch drones, and their Parliaments of ſuch beetles, and ſerpents, wherof the ones venome, and the others ſtupiditie hath cauſed the preſent calamitys.

*Maskes, and Recreations*, which they ranke next, are not peculiar to Monarchy, it being neceſſary unto perſons of greateſt imployment to have relaxations of ſpirit, and ſutable refreshing; And the Roman Common-wealth held

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the inſtitution of paſtimes, and things of this nature, *Inter-arcana Imperii*, and the publicke charges, beſtowed on them, were much more, then that, which theſe men call waſt. And Republicks of the Reformed Religion have followed that inſtitution. That, which they thruſt in touching the time of thoſe ſports, that they were the Sabboths dayes exerciſe, or preparations for them, is to blazen their counterfeite zeale; For neither the ſports, nor the preparations to them, were tyed to the Sabboth dayes, but were uſed on other times; But theſe Phariſaicall Iews will ſuppoſe any crimes in perſons, whoſe authority they ſeeke to deſtroy, that may raiſe the ſuperſtitious inflammation of their proſelites to purſue their ends. The publicke exerciſes of Religion were as duely performed in his MAJESTIES Court on thoſe daies, as in any Republicke of the world, and this calomnie is, not only impertinent, but groundleſſe.

*Forreſts*, which they lately mencioned, and heere repeate, were begun to be diſafforreſted in the time of his late MAJESTIE, who would have contended himſelfe with a moſt moderate uſe of ſuch pleaſures: And when to the uſeleſneſſe of ſome Forreſts to himſelfe, he adjoyned the proſpect of publicke good to perſuade a willingneſſe in the people, that benifit in the uninclоſure of them, to ſubmit to that worke, theſe buſy Incendiarys wrought under hand with the people therein, exclaiminge, that it tended to the undoing of the poore people, & that it ought not to be ſuffered, whence aroſe many inſolent diſorders: And thus from his MAJESTIES endeavours to amend the errours of former times, theſe men maliciouſly take occaſion to reproach him, making that his fault, which he would have reformed, and they croſſed.

*Donations to promoters of tiranny*, thy finde none, that name being one of their common criminations: Thoſe, to perſons, that had relation to his MAJESTIE by native, or perſonall reſpects, are not only laudable, but neceſſary, and

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the moſt principall of thoſe to his MAJESTIES only Siſter, and her children, was thought too little by this Generation of vipers in former Parliaments, who importuned his MAJESTIE to enter into a farr greater way of expence, then all his *Donations*, and coſt of his Court amounted to, for the ſupport of that Family: And why his MAJESTIE may not reward deſervers in any of his Kingdomes, as well, as theſe men ſuch, as aſſiſt them in their villany, themſelves will not give a reaſon: It cannot be expected, but they will call any man a favorite, whatever his worth be, that is preferred by the King: And for the *Scots* Nation, with whom they are now ſo angry themſelves well know, that they have given the *Scots* a greater quantity of treaſure, then all the Kings *Donations* to that Nation ever were; And if the *Scots* zeale had been ſo greate to uphold the Kingly power, becauſe the King was their Countryman, as theſe Declarers now jeere them, they had effected it, and theſe Traytors ſuffered their reward.

The *Scots* now finde, that though hand joyne in hand, God will deſtroy the Councells of the wicked: The diſſembled brotherhood, that was profeſt with ſo much pompe in their joynt rebellion againſt the King, is now turned into a perfect hatred, and though both of them proſecuted one ſinfull action, yet their different end, have diſcovered their corrupt pretences.

They ſay, *Its a wonder to conſider, whence the many hundred thouſand pounds, which were ſpent in the waies, they have named, ſhould ariſe, the lawfull revenue of the Crown being not above one hundred thouſand pounds a yeare, beſides ſome perquiſites appointed to the uſe of forts, and Navy.*

And it is a wonder indeede, that the King of *England* should maintaine the Kingdome with ſo ſmall a Revenue in ſuch ſafety, honour, and plenty, and even to aſtonishment, that there ſhould ſuch a curſed crew live in the world, that being his

his subjects, not only refuse him all necessary assistance for his Government, but reproach him for seeking it, and this scant revenue of the Crown refutes their fabulous multiplication of many hundred thousands mispended.

But they have found out a subterranean way of supply; that is *Projects* *Monopolies*, *Sales of Offices*, *Bribes*, *Compositions for breach of Penall Laws*: Incredible meanes to defray great expences in any sober mans judgement, and are well known not to extend to common necessities. They persuade the people, that all worthy undertakings, for the good of the Kingdome, were illegall *Projects*, if they drew any charge with them, though farr inferiour to the benifit received by them; And all pattents unto the first inventers of manufactures for a temporary sole use of their own inventions (a priviledge approved in all well ordered States) they Stile Monopolies: But the benifit of these things was little to the King, and the charge inconsiderable to the subject, and an *Excise* mans place under these new Masters farr exceeds the benifit of any man by those Projects, and Monopolys: For *Sales of Offices*, themselves know, they were prohibited, and punished, and in all their complaints they never instanced in one perticular: Themselves make these very offices rewards for such, as have served them in this rebellion, thrusting out the true propriators, and setting illiterate persons into places of great benefit, & such, as require learning for the due execution of them. For *Bribes*, if they hated them; they would not have stopped a petition against a notorious *Bribe-taker*, because he was of their faction: And as such persons are odious to all Kings, and there are examples of as great Severity in Monarchys, as Republicks against such offenders, so the allegation is only a common place of reproach, not matter of fact. *Compositions for the breach of penall laws*, were acts of grace, mittigating the rigour of what the law gave, but because there were controversies

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ſometimes moved in Parliament under theſe names, and that ſome proceedings in them were queſtioned for illegall, theſe men would perſuade the world, they were great oppreſſions, which were indeede favours to the people. They rake togeather all waies of gaine, ſome never acted, ſome inconſiderable; But should all their imaginary waies of the Kings receipt be true, it will be a toy to that, where to their new *Exciſe* amounts: There was no one *Projet*, that was of any profit to the King, but themſelves continue it, or take the value under another name, and this one *Projet* of *Exciſe*, with their power to proportion it at pleaſure, makes all elſe needleſſe.

They would be underſtood angry with the vices of the Court, but their aime is only to get the meanes to themſelves, and theſe hopefull branches, they mencion to be corrupted by the Court, are likely to be ſuch, as had learned their vices in forreigne ſtates: Yet after their malicious invective againſt the Court of *Englaull*, their Concluſion hath as much againſt all Princes Courts, *Exeat Aulea, qui vult eſſe pius*, Which might be better applied unto their Trayterous Chamber, and new State, then to a Princes Court; For in Court men are voluntarily evill, but he, that liveth amongſt theſe men, muſt be a *Traytor*, *a perjured Perſon*, or an *Hipocrite* of neceſſitie.

That *Bribery*, *Luxury*, and *Taxes will be prevented more in a Republicke, then a Monarchy*, they ſhew not, nor any man underſtands.

For the *Encouragements of a Manufacture, and Trade*, Princes were never defective, whoever lookes upon the Charters of the Severall Kings unto the corporations of *Englaud*, the inſtitutions of ſocietys for trade, and the often advices with the principall marchants at Councell boorde, touching the waies to advance it, will beleeve, that his late MAJESTIE, and his Predeceſſors ſpent more time, and had more zeale

to that worke, then theſe Fault-finders can have. It cannot be expected, that ambitious perſons will tell the people their ends, but they fit colours for every ſight, and therfore they perſuade ſome to their new Government in hope of wealth by trade, others by licence in Religion, as Sectaries, and ſome with pretences of pietie, whence they mencion the care of the poore heere, as they formerly did the Sabboth, but how unſeaſanably, all, that are acquainted with the laws of *England*, eaſily diſcerne; For the laws of that kinde, both for releife of the true poore, and punishment of the ſturdy begger, are thought rather to be too many, then too few, and the execution of theſe laws is a principall part in the office of Iuſtices of peace; But theſe Traytors (like their Predeceſſor) care not for the poore, but they ſeeke to keepe the bagge.

They ſay, *The repreſentatives of the people for theſe, and other reaſons intende to change the Government*. They much delight in the word *Repreſentative*, and have made it much miſunderſtood by the people, for they are Officers of the King, though choſen by the people, & punishable by him, if they attend not their office, whereof there are preſidents in great number, and though they preſent the peoples peticions to the King, they repreſent not the people at all, for it is abſurde, that the people in a Monarchy ſhould make any to repreſent them, for they are included in their King, who alone makes peace, and warr, and they are bound to aſſiſt him, and therfore thoſe Preſenters miſtake their Title in calling themſelves *Repreſentatives*, a word never heard of, till their aſſumption of it, and they ſay, *That they will change the Government*, an act confeſſed by this blacke Parliament, to be treaſon: But they, that make it no treaſon to kill their King, will make no conſcience to change the Government. And though they make it treaſon in others to ſubvert the fundamentall laws, yet will have it no ſubver-

ſion of a fundamentall laws to change the Government, and power of lawmaking, then which there is no greater ſubverſion, nor any laws ſo fundamentall; And that change, which theſe men affect, is to rule by the ſword inſteade of laws.

In order hereunto, *They hold it inconvenient, that the Lords houſe ſhould exerciſe a negative voice over the people, that they repreſent not, or a judiciall power, being not competent Judges, & their power depending on the abſolateneſſe of the King, whereunto they are inclined.*

When this late blacke Parliament, under pretence of priviledges, grew licentious, and began to encroach upon the Royall power, and pretended, that the Monarchie might well ſubſiſt, though the two houſes governed, and that there was law, it ſhould be ſo, his late MAJESTIE repreſented to them the folly of their ſuppoſitions, and shewed them, how beneficiall his prerogative was for the people, and withall the ill conſequents of their courſes, that they, which thought his prerogative a hinderance to the eſtablishing of their own opinions, would in time proceede to thinke the like of the Lords houſe, which with the lower houſe they would then have to be the entire Parliament, while they concurred in the ſame deſtructive ends, and that the people would be bartered by different factions, who would contend for rule; And though then they profeſſed their intentions againſt ſuch actions, and perſuaded men, they were wronged in the ſuppoſition, & that their Doctrine, and Practice drew not with it ſuch deſtructive concluſions, yet they are now effected, and it may eaſily be beleeved, that the conſtitution of the Lords houſe could not ſtand with the ends of the principall deſignes: Though ſome Lords have shewed their ingratitude to the Crown (from whence they received their honour) & their incapacitie for ſuch a place; Yet theſe rebells had no power over them. Theſe Repreſenters will not ſay, they repreſented the Lords, & how then can they pretend to obleige them? And the

Lords

Lords can aswell obleige the people,as they the Lords. The Lords houſe was eſtablished by law, where in the peoples conſent was involved, & they were as much repreſented by thoſe,the law had appointed to adviſe for them,as if they had been immediately choſen, and it had been an high crime in any elections to impower perſons to act in Government againſt them,or without them: And doubtleſſe the Lords, as they were aſſiſted, were more competent Iudges, then theſe Declarers,though by the law,they were not ordinary Iudges, nor in all caſes; And its eaſily beleeved (as it was foreſeene by his late MAJESTIE) that they could not ſurvive the Monarchy:All men know,that it is not lawfull power,but wicked faction, that takes them away, though their ſinfull concurrence in many trayterous actions (which draws everlaſting infamy to the name, & poſterity of many of them) rendred them worthy to be caſt down unto the dregs of the people.

*But though their houſe were taken away, they ſhall have the like priviledge, others have, to ſit in the lower houſe*: Which ſurely is too great an honour (as they meaſure it) for any one, that will take it: But this freedome is bound to their good behaviour, and the nature of the Free State is hereby declared, which admits none, though choſen by the people, but ſuch, as ſubſcribe unto the Dictates of the preſent Maſters, for ſo muſt their word, *Faithfull to the Common-wealth*, be expounted.

Their conjecture of the ſitting of Lords, and Commons togeather anciently is without ground, and no way conducing to the peoples good, if practiſed: But theſe men doe not ſee, that their Councell of State hath taken up a greater power, then ever the Lords claimed.

They ſay, *There is an objection, concerning the Declaration of the houſes of* Aprill 1646, *for Governing the Kingdome by King, Lords, and Commons, and other Declarations for making him a great, & happy Prince*; And to this they offer an anſweare, and ſay, *That at*

*that time it was their intent, being confident, that the* King *would conforme, his evill Councell being removed, and that the Peers, that remained with them, would have been a cauſe of it; But the* King *continuing obſtinate, and the* Lords *obleiged to uphold tiranny in reſpect of their peerage, they were conſtrained to change their reſolution, which they ſay no Commoner can juſtly repine at, neither could* King, *or* Lords *take any advantage of it, becauſe they did not conſent to it;* For, ſay they, *No contract is truly made, but where there is a ſtipulation on both ſides.*

The reaſon, why at firſt there was ſo much noiſe of the Kings ill Councell, was, becauſe the houſes had ſo often declared, that it was againſt the law, and their own duty to charge the King with evill; And the reaſon of the Declaration of Aprill, and others, they mencion, was, that their power was not ſufficiently confirmed to act, what ſince they have done. They have made an elaborate ſearch of all ſuch perticulars, which were the pretented cauſes of rebells in all ages to rebell againſt lawfull Princes, and they have according to that Copie induſtrouſly compoſed the Catologue of reproaches againſt his late MAJESTIE, no leſſe falſe then the ſuppoſed crimes are fowle. That they might have ſome wicked example for their juſtification, they have added the pretence of the obligation of their conſciences, and their dutie to God, to take no ſatisfaction for the life of a murtherer (as they impiouſly call his late MAJESTIE) They have enlarged their paſſion at the cryes of widdows, and orphants, and yet they will compound for all theſe offences, and make him *a great*, and *happy* King, if he would conforme to them: Thus, while they ſhift to cover their falſehood, they make it apparent, for no man can beleeve their odious allegations, and fained zeale, that reads them confeſſing, that they ſought, neither *Iuſtice, Religion,* nor *Common Good*, in proceeding againſt his late MAJESTIE when his relinquishing the *Militia*, and deſtruction of the *Church* (for that is the conformitie, they meane) would not only have

have ſaved his life, but engaged them to make him a *Great*, and *Happy Prince*, and continue the Government by *King*, *Lords*, and *Commons*, which they pretend to take away for the peoples good. Its certaine, their mentions were as falſe, as their pretences: The matters, where to they deſired his MAJESTIES conformity, were inconſiſtent with their promiſes, it being impoſſible for him to Governe, as a King, after he had parted with ſuch powers, as were neceſſary to it, and their intent, heere expreſt, ſubverts all their fained criminations, and pretences: And though they charge the Lords houſe with an exorbitant power, tending to ſlavery, and oppreſſion of the people, yet they would have retained it upon the condition of his MAJESTIES conformity, ſo as the people are not regarded, but themſelves, who looked only to the continuance of their rule over them, and certainly no Commoner had cauſe to repine at the place of the Lords, being involved in intereſt with them for their good, and they were much better pleaſed with the eminency of ſuch perſons, whoſe eſtates, and qualities obleiged them to publicke care, then to be ſubject to ſuch, who by faction, & violence now raigne over them, and whoſe qualitie is inferiour to their places, and their intereſt private, being not involved in the publicke. Theſe Declarations of theirs were not voluntary promiſes, but legall obligations, and therfore they vainley ſeeke to retract them for want of conſent in his MAJESTIE, or from the nature of ſtipulations, for the law required it of them, which neede not any further promiſe of theirs for confirmation; And if notwithſtanding all their objections againſt his late MAJESTIE they would make him a happy, and great King upon his conformity, whence is the forfeiture of his office, with they have dreamed of? If he had forfeited his Kingly Office, all his conceſſions were invalid, having not the nature of law; And continuing their King ſtill, the breach of theſe Proteſtations

encreaſed

encreaſed the guilt of their rebellion. It cannot be expected, that theſe men should make any conſcience of promiſes, or needed an evaſion for the breach of them, when they have broken the very Oaths of Supremacie, and allegiance, eſtablished by law, & that they will not ſay wanted the parts of a ſtipulation either to God, or man, and thoſe Oaths containe as much, as their Declarations, the breach whereof they labour to defend; For is it not ſo much to ſay, that they will beare *Faith*, and *True allegiance* to *His* MAJESTIE, *his Heirs*, and *Succeſſors*, and will *defend him*, & *them*, and *all powers*, and *preeminences belonging*, or *united* to the Crown, to the utmoſt of their power againſt all attemps what ſoever, and to profeſſe before *God*, that they did beleeve, that no man had power to abſolve them of that Oath, as any thing ſaid in that Declaration? They, that take ſuch Oathes, and do ſuch actions, as theſe men have done, will not ſticke at any promiſes, or obligations of conſcience; but taking their ſhift at the beſt, themſelves voted, that the Kings conceſſions were a ſufficient ground for peace, & what needed more of a ſtipulation to confeſſe themſelves guilty of breach of *Faith*, and their Kings *Blood*.

To the Objection, that matters ought to be determined in a full houſe, and not when members are excluded by force; and priviledge broken, and thoſe, that ſit, act under force, and good behaviour; They anſweare, *That every Parliament ought to act upon good behaviour, and few have acted, but ſome kinde of force hath at one time, or other, been upon them, and moſt of them under the force of tirannicall will, and feare of ruine by diſpleaſure thereof, ſome under the force of ſeverall factions, or titles to the Crown, yet the laws made even by ſuch Parliaments have continued, and been received, and beneficiall to ſucceeding ages; All which and whatſoever hath been done by this Parliament ſince ſome of their members deſerted them, and the late King raiſed forces againſt them, and ſeverall diſorders, & affronts offered to them (if this Objection take place) are wholy vacated.*

And

And is the law of Parliament, that laws made by Parliaments under force are legall, and binding, and is this the liberty of Parliaments, are the people thus represented? Was there ever a people so savage, that were governed by laws, which the Law-maker never consented to, nor judged reasonable? And are such laws worth so much blood, as these men say hath been spent for them? And is it treason to make warr against the Parliament, as themselves in this very Declaration pretend, and for which they say, his late MAJESTIE hath forfeited his estate? And is it no warr for an Army to come against the Parliament (as they call it) and take away what members they please? Who can thinke it other, then a Diabolicall deluſion in these men, that in this very Declaration so virulently charge his late MAJESTIE with unnaturallnesse for engaging the *English* Army against the *English* Parliament, and for comming to the house of Commons to seize the five members, and for committing Parliament men, and instantly justifie the like act of an army upon the same Parliament, as they would have it understood: Did they thinke, that such, as reade this, would forget, what they said some linies before? If all Parliaments ought to act upon good behaviour, they are certainely no supreame power, but those, that may exact that be haviour from them; Defences of evill actions encrease both sin, & shame.

To prove, *That any Parliaments have acted under force*, they produce not any perticular, but that they were under tirannicall will, and feare of ruine by displeasure therof. Iust Superioritie, and power is no force upon those, that are subject to it, and where the Superiour by his place is bound to the rules of justice, the Inferiour ought not to feare the breach of that rule, when he discargeth his dutie, but power is no force, and the strength of the Objection, which they trifle with, but do not answeare, is, that members were violently, restrained from the house, an act, which destroyeth the Par-

liament, and ſuch a force they cannot finde offered to any Parliament. Beſides there is a legall force, whereby a member may be excluded for a crime in courſe of juſtice; But its Barbariſme to permit laws to be made by an Aſſembly, that is actually forced by Armys, or popular tumults. That laws were made in the time of ſeveral titles to the Crown, and held good, doth not prove, that the Parliaments, that made them, were under force; Nor that laws made by Parliaments under force were binding: And its willingly granted them, that all acts made, ſince they uſed force againſt the King, and forced away their members, are wholy vacated, for it cannot be a Parliament, where King, or members cannot be preſent with freedome, and ſafetie. And though the allowance of ſucceeding times may authorize things diſorderly done, that adds no more legalitie to the doing of the act, then a pardon juſtifieth the crime of the malefactour.

They ſay, *For any breach of priviledge of Parliament, it will not be charged upon the remaining part, or to have been within their power of prevention, or reparation.*

A perſon cannot be ſaid to be under force, that hath the benefit of legall protection, and theſe men alleage for the validitie of their actions, when a force was upon the members, that it was not within their power of *Prevention*, or *Reparation*. If juſtice be shut up by force, all Parliaments are invalid, & are they not guiltie of breach of truſt, if they were a Parliament, as well, as priviledge, when they ſit, and command the Kingdome, which they no way repreſent? and when ſuch, as should be preſent, are violently detained, and all reparation refuſed?

But they ſay, *Themſelves have enjoyed Freedome, and are farr exceeding that number, which makes a houſe.*

Any member may be aſwell a houſe, as one houſe the whole Parliament. And do they thinke, that by the law of *England*,

*England*, the burgeſſes of a third part of the Kingdome may make laws to binde the whole, or that becauſe they are free by their complaince with the invaders, that therfore it is a free houſe? If this be the *Free State* wherewith they entice the people to forſweare their allegiance, there is little hope of thoſe gaudy Reformations, they have promiſed, or better daies, then they have ſeen, ſince the beginning of theſe mens power, for where the foundation is laid in tumult, and confuſion, nothing can be expected, but an unceſſant miſery; Either they act with the *Force*, or under the *Force*, and in both theſe caſes they cannot be a Parliament, if they could not prevent the *Force* upon their members, nor *Repaire* them, they act under the *Force*, if they could, they act with it.

They ſay, *That this force was done by their own guards.*

That doubtleſſe doth not diminish the force, for if one part of the Parliament without guards force another, as the remaining partie heere conſented to the force, it were no leſſe deſtructive to libertie, nor more excuſable, and force acted by their own guards is more criminall, then by ſtrangers, being a breach of truſt joyned to violence. But this frivolous anſwere sheweth, that they now depend not upon the peoples opinion, but will force them to take their words for laws without diſpute, and allow them no more of *Reaſon*, then they have left them of *Law*, and *Liberty*.

They ſay, *That ſuch, as had hopes to deſtroy the Parliament, ſcandalize their actions, as done under force.*

Themſelves have cleered the Objection from ſcandall, by confeſſing a force upon the members, which themſelves could neither prevent, nor repaire, and force is not therfore no force, becauſe acted by their own guards.

They ſay, *Whether priviledge of Parliament, or ſafety of the Kingdome should be preferred, is not hard to judge, and that the Parliament should paſſe by the breach of priviledge, as hath been often done, rather, then decline their duty, and reſigne all to hazard of ruine.*

... There is a difference between disputing of priviledges in Iudicature, and suppressing them by force, there are some priviledges of Parliament, that are not essentiall to publicke safety, nor to Parliament, and which may be past by in some cases, but the essentiall parts of Parliament are more, then priviledges, and to take away them is to resigne all to ruine and confusion, as the taking away the King, and the Lords house, was against the being of Parliament, and the safety of the Kingdome: Next, the disembring of the lower house, by tumultuous violence, was a subversion of the Parliament, and the acting of such, as remained, conformably to that force, was a breach of their trust, and a concurrence to the ruine, and confusion of the Nation. These men ought to have protested against this act of violence, and if they had not had satisfaction, they ought to have appealed to the supreame power, and no Parliament can act, when the supreame power is suppressed, and their trust is more wilfully broken, while they act under a force, then by a totall forbearance: And by this rule, these, that acted the force, may with more right call themselves the Parlirment, then those, that act at the pleasure of them: In this act its most apparent, that the remaining part were authors, or accessories to this force, that they might have no obstruction in destroying the King, taking away the Lords house, and doing those other monstrous villanys, they have since acted, and therfore declare it to the world, that any fortie men of the lower house may expell, and punish the rest of the 500. members, chang the Government, and be the supreame power of the Kingdome, for to this amounts the summe of the answeare to the former Objection; And were the remaining partie only supposed to be patient in the force, which can never be, in reguard of their succeeding actions, yet after such force committed, all their actions are null, as if they acted in prison.

The

The laſt weightie Objection (as they call it) is, *That the Courts of Iuſtice, and the good old Laws, and Cuſtomes of England, the badges of Freedome (the beneſit where of our Anceſtors enjoyed long before the Conqueſt, and ſpent much of their blood to have confirmed by the great Charter of the liberties, and other excellent laws, which have continued in all former changes, and being daly executed, are the moſt juſt, Free, and equall of any other Laws in the world) will by the preſent alteration of Government be taken away, and loſt to us, and our poſterities.*

They give good words of the law, though they have taken away the principall part of it, and condemne themſelves for the murther of their King, and ſlander of their Government, when all their good old laws were made, and continued under Kings. They have no other opinion of the law, then their followers, that have called it, *Vncertaine, Intricate*, and againſt *Reaſon*, and therfore would make their own ſence the meaſure of all *Laws*, and their own *Obedience*.

To give ſatisfaction to this point, they ſay, *They have publiſhed a Declaration, and appointed Iudges in Courts, and Circuits, for the Adminiſtration of Iuſtice according to the known laws.*

The *Nature of their Declarations* ſufficientely appeares by this, and the people cannot expect, that they will obſerve their Declarations better towards them, then they have done towards the King, their Declarations containing nothing, that is intended to be performed.

The *Judges*, they have appointed, are pickt out of the moſt pliable to their ends, and ready to judge by their Mandates, not the known laws, & whereas Iudges were formerly ſworne not to delay juſtice for great, or little ſeale, any command of theirs hath the force of a law, & their ſpeakers letter ſhuts up all proceedings of juſtice: But by the Appointing of Iudges over the people, that have ſhipwrackt their conſcience in perjurie, and treaſon, againſt the known laws (which theſe men do command not to be obeyed, in reguard they are inconſiſtent with their new State) the

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people can have no more ſatisfaction, that their good old laws shall be continued, then, that the conſcience of ſuch Iudges wilbe reformed.

*They are ſenſible*, they ſay, *Of the Excellency, Æquality, and Antiquity of thoſe Laws, from before the time of the Norman ſlavery forced upon us.*

It sheweth their wicked ingratitude, that ſeeke to change that Government, by which they had ſuch excellent laws. There are not many among them, that underſtand the laws ſo well to judge of their excellency, or equallity, and very few, that know their antiquity; And should wee live by ſuch laws only, as were in uſe before the Conqueſt, few men would thinke them excellent, or equall: Wee finde thoſe heathenish trialls by fire, and water before the Conqueſt, which ſucceding times have taken away, and all men, that underſtand the ſtory, or law of *England*, muſt acknowledge, that the maine body of our laws are of latter compoſure, then the Conqueſt, and if wee should take away the laws of ſuch Kings, as lived ſince the Conqueſt, wee shall finde the reſt undeſerving ſuch high commendations, or earneſt contentions.

Their impertinent mention of Norman ſlavery sheweth, either their malice, or ignorance of the laws, and hiſtory, whereof they pretend to be ſo knowing, and ſenſible, for it caſts dirte in their faces, that talke of a Norman ſlavery, when, if they looke backe, they muſt behold a Saxon confuſion, and a Danish Conqueſt, and whoever looke upon the Story of our Nation shall finde the greateſt ſetlement, & ſtability of the Kingdome in *Honour*, *Wealth*, and *Strength* to be laied by the Norman, the former times languishing with diviſion, and blood, and the moſt part forced to live out of Civill converſation: But ſtories have delivered unto us the Government of *England* to be allwaies Monarchicall, even before the Romans, and in that point nothing innovated by

the

the Norman; And as no Nation ever conceived *England* to be leſſe free, then any Kingdome of the world, ſo ſtrangers may now ſtand aſtonished to heare theſe men talke of a Norman ſlavery; when all Hiſtoris report, that the Kingdome before was leſſe aſſured, & worſe governed. Its true, that *Libertie*, *Property*, and *Peace* of the ſubject, which they mencion, were well preſerved by the laws in force, which are now arbitrary at their diſcretion.

They ſay, *That it falleth out happily, that they are conſiſtent with the Government of a Republicke upon ſome eaſie alterations of forme only. Such being the uſe of the Kings name, but no power of perſonall Adminiſtration of Iuſtice allowed him.*

The finall appeale in all caſes is to the King by the laws of *England*, though he judge by advice of his learned Councell, but the Commons houſe of Parliament is not permitted to judge, nor their Councell taken by the law in any Iudicature.

It had been ſtrang, if the laws of ordinary Iudicature in Monarchys should have been all inconſiſtent with a Republicke; But its certaine, that all the laws of *Magna Charta*, and all the laws of the ſubjects freedome, and propertie, are wholy taken away by the chang of Government, and no law is obligatory, either upon mens perſons, or eſtates. They have changed the power of Law-making, and aſſumed a power to change laws at their pleaſure: The Kings name is not only changed, but the power, which is more then forme; For is it only forme to make all Iudges, and appoint all Officers? Is it but matter of forme, that they now uſe in diſtribution of all adminiſtrations, and places through the Kingdome? But expoſtulations are vaine with reſolved impudence: Kings adminiſter Iuſtice by their officers, who are bound to give them an account of their proceeding: With out the King there is no tranſgreſſion of laws, & thoſe laws, which were continued in a Tirants uſurpation, cannot in a multitudes.

They

They say, *They know their own authoritie to be by the law, to which the people have assented.*

But they know very well, that the people never assented, nor the laws authorized, that they should act in Government without King, or Lords, or fortie Persons of the lower house over the rest, but the direct contrary: And the scope of this Declaration is to shew the reason of the alteration of the government, which was Monarchicall, & to take away the Lords house, which, themselves say, had, a negative voice in the making of laws; which contradicts the imagination of any power by law in these Pretenders, besides many other apparent Testimonies in the records, and law bookes of this Nation, where the Commons petition for laws, and the King, with advice of the Lords, enacts them, he judgeth fit, and rejects what he disliketh, this being the constant practice conformable to the doctrine of all ages, and there can never be produced opinion, or practice, for their vaine assertion.

They say, *If that the laws be taken away, all industry must cease, and greater calamities (if possible) follow, then by the late Kings misgovernment.*

Can these graceless Persons thinke, that any man beleeveth his late MAJESTIES Government a time of miserie, blood, and calamity, where in there was so great peace, & order; And all men now see, that they live without law, and at the discretion of the souldiery these men, that call themselves the Parliament, being only taske Masters set over the people by the Military Commanders, at whose pleasure they move, or sit still, and can they thinke of a time of greater miserie, and confusion, then the Nation fell into by their usurping the government? The people must see, that their miserie came by these mens violation of the laws, & that they invaine expect better daies, while the breach of them is so wickedly continued, & hipocritically defended.

That

That their Arguments are ſufficient to perſuade men to ſubmit to laws, whereof theſe men are Maſters, themſelves do not beleeve, neither can any man thinke, that they will forbeare the abrogation of them, for the advantage of themſelves, or friends, and that may be eaſily collected from the enſuing clauſe, where in they ſay, *Their intent is to continue, and maintaine the laws, and government of the Nation with the preſent alterations, and ſuch further alterations, as the Parliament ſhall judge fit to be made for the due Reformation therof, and the taking away corruptions, abuſes, delayes, vexations, unneceſſary travell, and expences, & what ſoever ſhall be found really burthenſome, and grievous to the people.*

What they meane by Parliament is ſufficiently underſtood, and that they make a totall chang of all the laws upon the pretences, they mention, as well, as make a warr againſt their King under colour of defence, murther him upon pretence of juſtice, chang the government under a title of reformation, and perſecute his MAJESTIE now living under the name of ſeeking peace.

*The ſumme of their deſigne*, they ſay, is *in changing the Government, to prevent a new warr, to eſtablish peace, and oblivion of all rancour, and ill will, occaſioned by the late troubles, to provide for the worship of God, the advancement of the true Proteſtant Religion, a liberall maintenance for Godly Miniſters, juſt libertie for conſciences, perſons, and eſtates, punishment of the cruell murtherers in Ireland, reſtoring of the Proteſtants, ſatisfaction of engagements, encouragement of manufacture, florishing of trade, maintenance of the poore, reformation, and adminiſtration of the law, ſetling of the ſouldiers pay, taking away free quarter, and ſatisfaction of the debts of the Common-wealth, removing of greivances, and oppreſſions of the people, and eſtablishing peace, and righteouſneſſe.*

There was never malefactour, but deſired the quiet enjoying of all his ill gotten bootie, & never uſurper, but deſired peace, and perſuaded the people, that ſuch as diſturbed the free exerciſe of his unlawfull power, were enemies to peace? But how vainely they pretend chang of government

to prevent a new warr, which is the only cauſe of it all men ſee, for nothing, but that, could occaſion it. Such, as have robbed, and diſpoſſeſt others, would profeſſe to uſe it better, then others have done, and Tirants, that had expelled lawfull Princes, never failed to promiſe a more excellent government to the people, then formerly they enjoyed, and ſome times have done acts of favour, and juſtice to the people: But as all men know, that none of their actions are for the love of vertue, but for ſupport of their power by ſeducing the people, ſo it is the principall duty of all men, that live in civill ſocietie, to vindicate the right of their government, to reſtore ſuch, to whome by laws they owe ſubjection, and expell Uſurpers, whoſe power is an oppreſſion of their laws: For if the people breake the rule of law, that directs their obedience, and ſuffer themſelves to be led by the deceitfull promiſes of ambitious Pretenders, they can never expect a ceſſation of the unjuſt, and bloody plots of ſuch perſons, nor of the miſery, and confuſion of a people toſſed too, and fro with varietie of pretences, and uncertainty of opinions: The preſent affairs are witneſſe ſufficient of the arts, and ends of ſuch perſons, if the examples of antiquitie were wanting, and the people neede not be told, what the performances of theſe promiſes wilbe in everie part, that have ſeene the beginnings in ſome, that inſtead of taking away rancour, and ill will, occaſioned by fore paſt troubles, theſe Declarers exerciſe the ſevereſt rigour, and ſet the moſt laſting markes of diviſion, and diſcontent upon men, that were engaged againſt them, that could be deviſed, to tranſmit the griefe, and ſmart to poſteritie, and have had it in conſultation to make a generall maſſacre of them. Inſteade of the *Proteſtant Religion*, they have authorized the Sects, and Hereſies condemned in all Proteſtant Churches. And their Godly Miniſters are ſuch, as Michâs Levite, that preach for reward, at the pleaſure of theſe Maſters. *Libertie*

*of Conſcience* is a lawleſſe licence to condemned Sects, a Tirannicall prohibition of the eſtablished Proteſtant Religion. Perſons, and Eſtates are ſubject to their arbitrary power. Its like, they will ſeeke forraigne alliances, if any be ſo ſoolish to truſt them, after ſuch notorious perjurie, or ſo unworthy to have amitie with them, after ſuch an unexampled villaine.

For *Trade*, *Poore*, and *Iuſtice*, its like they will follow the example of Rich: the third, who shewed an outward diligence in theſe things, where the perſons were not conſiderable to him, though he never reguarded law, or juſtice in deſtroying thoſe, he feared, or hated, and thoſe two paſſions of feare, and hate, Uſurpers never want. The people may expect performance of their Declarations, as they performed their Proteſtations to his late MAJESTIE. In the Proteſtation of the fifth of May they ſweare, that they would maintaine the Kings Royall Perſon, Honour, and Eſtate. In their Declaration of the 29. of May they have theſe words: *The providing for the Publicke Peace, and proſperitie of his* MAJESTIE *and all his realms, we proteſt in the preſence of the allſeeing Dietie, to have been, and ſtill to be the only end of all our Councells, and endeavours, wherin wee have reſolved to continue freed, and enlarged from all private aimes, perſonall reſpects, or paſſions what ſoever.* In their Petition of the ſecond of Iune, they tell him, that they have nothing in their thoughts and deſires, more pretious, and of higher eſteeme, next to the honour, and immediate ſervice of God, then the juſt, and faithfull performance of their duty to his MAJESTIE. And they neede not be told, how theſe agree with this Declaration. They reſolve to governe by a martiall power, which is farr from the eaſe of the people, or diſcharge of debts: It is the way of all Uſurpers to oppreſſe the peoples libertie with ſtanding armies. Such as ſaw the happy Government of his late MAJESTIE, when the noiſe of weapons of warr was not heard in the Land, may judge

the difference between unlawfull intruders, and lawfull Princes, and between the naturall ſubjection to a free Prince, and the forced ſervitude to lawleſſe Tirants: None will hope for the eſtablishment of peace, & rigteouſneſſe, while power is unlawfully exerciſed, and lawfull Princes denied their right.

*Theſe being their ends, they doubt not*, they ſay, *and humbly pray, that God will bleſſe their endeavours.*

God ſeeth their wicked ends more cleerly, then man ſeeth their wicked actions, and though themſelves are conſcious of both, yet with Mahomet they will publish a new Goſpell of their own, and ſigne all their wicked actions with the name of God. Though theſe enemies of God proſper, and are mighty, they have the brand of their deceits; and impietie in the world, and though the Divine vengeance be deferred, yet it will ſurely come, and overtake them in a day, when they looke not for it.

They ſay, *They do not intermedle with, the affairs of other Kingdomes, nor give offence to their neighbours, but confine themſelves to the Government of this Common-wealth, with which they are intruſted, and authorized by the people.*

This whole Declaration is a continued narrative of their Uſurpation, that they have no power from the people, nor are any way their Repreſentatives, and yet they will conclude againſt their own premiſes; And though one principall part of this Declaration be to debaſe the Kingly Government, and to incite all people to do, as they have done, and perſwade the ſubjects in all States, that the Supreame power is in them, not in their Rulers, yet they thinke to be beleeved a broad, that they do not intermedle with other States: But they know their injuries unto all Princes, as well as the bloody murther of their own King, & that all Princes, and States are obliged in Honour, and Conſcience to deteſt them, and ſeeke their punishment.

*Yet they presume, that they, who are not concerned, will not interpose in the affairs of England, & in case of injurie, they doubt not by the courage, & power of the English Nation, & blessing of God, to maintaine their own rights, & expect a cheerefull concurrence from all true hearted Englishmen.*

Confidence, & impudence are inseparable from the Successes of Traytors, which ought not to dismay any man from just, & honourable endeavours to bring their own demerits upon them, nor draw any Englishmen to concurre in so damnable a designe, which must necessarily embroile them with perpetuall warr, wound their conscience by living in so known a sin, draw a curse upon their posterities, & have a fearfull expectation of the judgement of Almighty God, for their willfull disobedience to his word, & truth. Treason, and true-heartednesse are inconsistent, and an *Englishman* cannot own their cause, but must call himselfe traytor, or be esteemed so throughout the world: How can an *Englishman*, that hath taken God to witnesse, that he will beare faith, and true allegiance to his King, & his Heirs, & lawfull Successors, dispence with his conscience in denying all faith, and allegiance to him, & obey, & serve the murtherers of him, & what greater horrour can a man draw upon his soule, and curse on his estate, then to live, & die in a willfull perjurie, & what may a Nation expect, that live in the known breach of so solemne a Covenant with God, their King, and fellow subjects?

There is a large difference between the *English* Nation, & the *English* Traytors; Forraigne Nations are well informed of the rebell, & loyall *Englishman*, & in seeking to subdue the rebell, they will have no quarrell with the *English* Nation: Though God have hitherto permitted their rage, wee may hope, by the wickednesse of their cause, that he will shorten the miserie of the oppresed, and set bounds to the power of these destroyers, and no noble people will be terrified with the threats of such rebells to Humane Societie.

The perticular ſlanders againſt his late MAJESTIE were by him often, & fully anſweared, & yet are addreſſed againe to the people without any mencion of the anſwears to them, truſting to clamour, not to reaſon.

Their Hipocriſies neede no detection, their defences no confutation, their falshood no conviction, their injuſtice, and crueltie no aggravation, their own writing accuſings, and condemning them of out doing all examples of villany.

Their proſperitie, as it is the preſent ſcourge upon thoſe Kingdomes, ſo by the ſlackneſſe, or conivence of ſuch as are concerned, may carrie the flame abroade to ſet all Europe on fire: There are examples among morall heathens of uniting themſelves for the punishment of execrable crimes, and it hath been the honour of Chriſtians to be the reſtorers of oppreſſed Princes, & ſubduers of rebells. It muſt be the ſigne of a degenerate age, & evill times approaching, when ſo great wrong is winkt at, and unjuſt ſufferings neglected; And though God in his time will doe his own worke, yet men neglect their own honour, and his ſervice, that omit any endeavours towards ſuch a worke, being the vindication of MAJESTIE from vulgar contemp; The laws of nature, and nations from violation; The perſons of captive Princes from ignominious injuſtice; Order of civill Societies from confuſion; The aſſiſtance of an oppreſſed King; Revenge of the moſt infamous parricide, & punishment of the moſt bloody Malefactors, that any age hath ſeen. The deleverance of a people, oppreſſed in eſtate, perſon; & conſcience. And ſince God commanded the revenge of an inhumane violence upon a faithleſſe Concubine, & the outrage done her merited an univerſall invitation of the whole Nation to a juſt indignation againſt it; Much more doth the blood of a great, and good King, that had been inhumanely afflicted, & tormented by his ſubjects, & at laſt Barbarouſly murthered, & his Succeſſour proſecuted, and robbed of all meanes of life, crie a lowde

lowde to all Princes, & whoever elſe hath any ſence of religion, honour, or honeſtie, to conſider the matter, conſult and give Sentence.

*FINIS.*

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## ERRATA.

Pag. 7. line 2. Governours *read* Governments. p. 8. l. 20. fight a *read* fight for a. l. 33. & 34. That without *read* That with out an entire conſent of all, no people can chang, nor with out. p. 40. l. 12. requiered *read* enquiered. p. 41. l. 11. with *read* which. p. 59. l. 4. Donnages *read* Dammages. p. 71. l. 4. mentions *read* intentions. l. 31. with *read* which. p. 77. l. 6. daly *read* duly.

*Statutes* ſpeak very fully. Common Experience tells you, when we ſpeak of the King, *and ſo the Statutes* of *Edward the third*, we call the King, *Our Soveraign Lord, the King*: *Soveraign*, that is, *Supreme*. And when the Lords, and Commons, in *Parliament*, apply themſelves to the King, they uſe this Expreſſion, *Your Lords, and Commons, your faithful Subjects, humbly beſeech*. I do not ſpeak any Words of my own: but the Words of the Laws. Look upon the *Statute Primo Jacobi*, there's a Recognition, that the Crown of *England* was lawfully deſcended on the King, and His Progeny.

(*The* Statute *it ſelf was read, to which it is deſired, the* Reader *will be referred.*)

Theſe are the words of the *Act*. And this is not the firſt Preſident: for you ſhall finde it *primo Eliz. cap.* 3. They do acknowledge the Imperial Crown lawfully deſcended on the *Queen*, the ſame *Recognition* with this. Before that (becauſe we ſhall ſhew you we go upon grounds of Law in what we ſay) *Stat.* 24. *Hen.* 8. *cap.* 12. *Whereas by divers ſundry, old, authentique Hiſtories, and Chronicles, it is manifeſtly declared, and expreſſed, that this Realm of* England *is an Empire, and ſo hath been accepted in the world, governed by one Supreme Head, and King, having the Dignity and Royal Eſtate of the Imperial Crown, of the ſame, &c.*

25 *Hen.* 8. *c.* 21. there it is, the People, ſpeaking of themſelves, That they *do recognize no Superiour under God, but onely the King's Grace.*

*Gentlemen*, You ſee, if the King be immediate under God, He derives His Authority from no body elſe: if the King have an Imperial Power; if the King be Head of the Commonwealth, Head of the Body Politick; if the Body Politick owe Him Obedience: truly, I think it is an undenied conſequence, He muſt needs be Superiour over them.

*Gentlemen*, This is no new thing, to talk of an *Emperour*, or an *Imperial Crown*. Do not miſtake me all this while: It is one thing to have an *Imperial Crown*, and another thing to Govern *abſolutely*.

*Gentlemen*, The *Imperial Crown* is a word, that is ſignificative: You ſhall finde in all *Statutes*, *primo Eliz.* and the firſt of King *James*, nay, even in the *Act* of Judicial Proceedings of this Parliament, it is called an *Imperial Crown*. They that take the Oathes of Allegiance, and Supremacy, they ſwear, That they will, to their Power, aſſiſt, and defend all Juriſdictions, Priviledges, Preheminences, and Authorities, granted, or belonging to the King, His Heirs, and Succeſſours, or annexed to the *Imperial Crown* of this Realm. What is an *Imperial Crown?* It is

that, which, as to the coercive part, is ſubject to no man under God. The King of *Poland* has a *Crown*: But what is it? At His *Coronation* it is conditioned with the People; That, if He ſhall not govern them according to ſuch *Rules*, they ſhall be freed from their Homage, and Allegiance. But the *Crown* of *England* is, and always was, an *Imperial Crown*, and ſo ſworn.

*Gentlemen*, As I told you, even now, the *Imperial Crown* is a word ſignificative; that *Crown*, which as to the coercive part, is not ſubject to any Humane Tribunal, or Judicature whatſoever. And, truly, that this is ſuch an *Imperial Crown*, though I have cited Authorities ancient enough, you may finde them much more ancient. I remember, in the ſtory of *William Rufus* (you ſhall finde it in *Matthew Paris*, and *Eadmerus*) ſome *Queſtion* was about *Inveſtiture* of Biſhops, and the like, the King writes His Letter; *That, &c.*

God forbid, I ſhould intend any abſolute Government by this. It is one thing to have an *Abſolute* Monarchy, another thing to have that Government *Abſolutely* without Laws, as to any coercive Power over the Perſon of the King: for as to *Things*, and *Actions*, they will fall under another conſideration, as I will tell you by and by.

*Gentlemen*, Since this is ſo, conſider the Oath of Supremacy, which moſt men have taken, or ſhould take. All men, that enter into the Parliament Houſe, they are expreſly enjoyned by *Statute* to take the Oath of Supremacy. VVhat ſays that Oath? VVe ſwear, that *The King is the onely Supreme Governour within this Realm, and Dominons.* He is *Supreme*, and the *onely Supreme*: and, truly, if He be *Supreme*, there is neither *Major* nor *Superiour*. I urge this the more, leſt any perſon, by any miſconſtruction, or inference, which they might make from ſomething that hath been acted by the Higher Powers, they might draw ſome dangerous inferences, or conſequences, to colour, or ſhadow over, thoſe Murtherous and Trayterous Acts, which afterwards they committed. They had no Authority. But, as I told you, though I do ſet forth this, and declare this to you, to let you know, that the King was immediately ſubject to God, and ſo was not puniſhable by any Perſon; yet, let me tell you, there is an excellent Temperament in our Laws, that, for all this, the King cannot rule, but by His Laws, it preſerves the King, and His Perſon, and the Peoples Right.

There are three things, touching which the Law is converſant: *Perſonæ*, *Res*, & *Actiones*; Perſons, Things, and Actions. For the *Perſon*

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*Perſon* of the King; He is the Supreme head, He is not puniſhable by any coercive Power : the Laws provide for that. *The King can do no wrong*, it is a *Rule* of Law , it is in our *Law-books* very frequent : 22d. of *Edward the Fourth*, Lord *Coke*, and many others. If he can do no Wrong He cannot be Puniſhed for any wrong, The King, He hath the infirmities , and weakneſs. of a man : but he cannot do any injury, at leaſt not conſiderable, in Perſon; He muſt do it by Miniſters, Agents, Inſtruments. Now the Law , though it provide for the King ; yet if any of his Miniſters do wrong , though by his command. they are puniſhable. The King cannot arreſt a man, as He cannot be Arreſted Himſelf : but, if He arreſt me by another man , I have remedy againſt this man , though not againſt the King : and ſo, He cannot take away my *Eſtate*. This as to the *Perſon* of the King : He is not to be touched ; *Touch not mine Anointed*.

I come to *Things*. If the King claim a Right, the King he muſt ſue according to His Laws, the King is ſubject to the Laws in that caſe , His Poſſeſſions ſhall be tryed by Juries. If He will try a man for His Fathers Death, you ſee he will try them by the Laws The Law is the Ruſe, and Square of His actions, and by which He , Himſelf, is judged.

Then for *Actions* : that is , ſuch *Actions*, whereby Rights , and Titles, are proſecuted , or recovered , the King cannot judge in Perſon, between man and man , He does it by his Judges , and upon Oath , and ſo in all caſes whatſoever ; If the King will have His Right , it muſt be brought before His Judges. Though this is an *Abſolute* Monarchy : yet this is ſo far from infringing the Peoples Rights ; that the People, as to their Properties, Liberties, and lives, have as great a priviledge, as the King . It is not the ſharing of Government , that is for the Libertie , and Benefit of the people : but it is, how they may have their lives, and Liberties , and Eſtates, ſafely ſecured under Government. And you know, when the Fatneſs of the *Olive* was laid aſide, and we were Governed by *Brambles* : theſe Brambles , they did not onely tear the *Skin* ; but tore the *Fleſh*, to the very Bone.

*Gentlemen*. I have done in this Particular, to let you ſee, that the Supreme Power, being in the King, the King is immediately under God, owing His Power to none , but God. It is true (bleſſed be God) we have as great Liberties, as any People have in *Chriſtendom*, in the World:

but

but let us own them, where they are due. We have them by Conceſſions of Our Princes. Our Princes have granted them: and the King, now; He in them hath granted them likewiſe.

*Gentlemen*, I have been a little too long in this, and yet I cannot ſay, it is too long: becauſe it may clear miſunderſtanding; ſo many Poyſonous Opinions having gone abroad. To come a little nearer. If we conſider; ſuppoſe there were the Higheſt Authority; but, when we ſhall conſider this horrid Murther (truly, I cannot almoſt ſpeak of it, but ——— *Vox faucibus hæret.*) When we ſhall conſider, that a few Members of the *Houſe of Commons*, thoſe, that had taken the Oath of *Supremacy*; and, thoſe that had taken the Oath of *Allegiance*, that was to defend the King, and His Heirs, againſt all Conſpiracies, and Attempts, whatſoever, againſt His, and their Perſons, Their Crowns and Dignities: not onely againſt the *Pope's* Sentence, as ſome would pretend; but, as otherwiſe, againſt all Attempts, and Conſpiracies; not onely againſt His perſon, Crown, and Royal Dignity, nor *Pope*'s Sentence, nor, onely, in order to the Profeſſion of Religion, but abſolutely: or otherwiſe, that is, whatſoever Attempts, by any Power, Authority, or Pretence whatſoever. I ſay, when a few Members of the *Houſe of Commons*, not an eighth-part of them, having taken theſe Oaths, ſhall aſſume upon themſelves an Authority; an Authority, what to do? ſhall aſſume to themſelves an Authority to make Laws, which was never heard before; Authority to make Laws: what Laws? a Law for an *High Court of Juſtice*, a Law for lives, to Sentence mens lives; And whoſe Life? the Life of their Sovereign: upon ſuch a King, who, as to them, had not onely redreſſed long before, at the beginning of the *Parliament* all Grievances, that were, and were imaginable, taken away the *Star-Chamber*, *High-Commiſſion*-Court, and about *Shipping*: ſuch a King, and after ſuch Conceſſions, that He had made in the Iſle of *Wight*; when He had granted ſo much, that was more, then the People would have deſired. When theſe few *Commons*, not onely without, but excluding the reſt of the *Commons*; not onely without, but excluding the reſt, but rejecting the *Lords* too, that then ſat: When theſe *few Commons* ſhall take upon them this Authority, and, by colour of this, their King, Soveraign, Liege Lord, ſhall be Sentenced, put to Death; and that put to Death, even as their King, and Sentenced as their King; put to Death as their King, and this before His own Door, even before that Place, where He

uſed

uſed in *Royal Majeſty* to hear Embaſſadors, to have His Honorable Entertainments, that this King ſhall be thus put to Death at Noon-day; it is ſuch an aggravation of Villany; that, truly, I cannot tell what to ſay. No ſtory, that ever was, I do no not think any *Romance*, any Fabulous *Tragedy*, can produce the like. *Gentlemen*, If any Perſon ſhall now come, and ſhroud himſelf under this pretended Authority, or ſuch a pretended Authority, you muſt know, that this is ſo far from an Excuſe, that it is an Height of Aggravation. The Court of *Common Pleas* is the Common Shop for Juſtice: in that Court an appeal is brought for Murther, which ought to have been in the *King's Bench*, the Court gives Judgment, the Party is Condemned, and Executed: in this Caſe, it is Murther in them, that executed; becauſe they had no lawful Authority. I ſpeak this to you, to ſhew you, that no man can ſhroud himſelf, by colour of any ſuch falſe, or pretended, Authority. I have but one thing more to add to you upon this head; and that is (which I ſhould have ſaid at firſt) If two, or more, do Compaſs, or Imagine the King's Death; if ſome of them go on ſo far, as to Conſultation; if others of them go further, they Sentence, and Execute, put to Death: in this Caſe they are all Guilty; the firſt Conſultation was Treaſon. I have no more to add, but one Particular, a few Words.

As you will have Bills preſented againſt thoſe; for Compaſſing, Imagining, Adjudging the King: ſo poſſibly you may have Bils preſented againſt ſome of thoſe, for Levying War againſt the King: Levying of war, which is another Branch of the *Statute* of 25th of *Edward the Third*. It was but Declarative of the Common Law: it was no new Law. By that Law it was treaſon to *Levy War* againſt the King. But to levy War againſt the Kings Authority, you muſt know is Treaſon too. If men will take up Armes upon any Publique pretence; if it be to expulſe Aliens; if but to pull out Privy Councellours; if it be, but againſt any Particular Laws, to reform Religion, to pull down Encloſures: in all theſe caſes, If Perſons have aſſembled themſelves, in a Warlike manner, to do any of theſe Acts; this is Treaſon, and within that Branch of Levying War againſt the King This was adjudged in the late Kings Time in *Berſtead*'s caſe, Queen *Elizabeth*s, *Henry* the *Eighth*'s, former Times. King *Jame*'s Time: much more; if men will go, not onely to Levy War againſt the King, but againſt the Laws, all the Laws, ſubvert all the Laws, to ſet up new Laws, Models of their own. If any of

theſe

theſe caſes come to be preſented to you, you know what the Laws are. To conclude, you are now to enquire of Blood, of Royal Blood, of Sacred Blood; Blood like that of the *Saints* under the *Altar*, crying *Quouſque, Domine*; *How long*, *Lord*, *&c.* This Blood crys for Vengeance, and it will not be appeaſed without a Bloody Sacrifice.

Remember but this, and I have done: I ſhall not preſs you upon your Oaths; you are Perſons of Honour; you all know the Obligation of an Oath. This I will ſay, that he, that conceals, or favours, the guilt of Blood, takes it upon himſelf; wilfully, knowingly, takes it upon himſelf. And we know, that, when the *Jews* ſaid, *Let his blood be on us and our ſeed*, it continued to them, and their Poſterity, to this day.

*God ſave the King.* Amen, Amen.

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His Lordſhips *Speech* being ended; *Thomas Lee* of the *Middle-Temple London*, Gentleman, was called to give in the Names of his *Witneſſes*. The names of the *Witneſſes* then, and there ſworn, follow;

*William Clark* Eſq;
*James Nutley* Eſq;
Mr. *George Maſterſon* Clerk.
*George Farrindon.*
*Hercules Huncks.*
Dr. *VVilliam King.*
*Martin Foſter.*
*John Baker.*
*Stephen Kirk.*
*Richard Nunnelly.*
*John Powel.*
*John Throckmorton.*
*John Blackwel.*
*Ralph Hardwick.*
*Thomas VValkley*, Gentleman.
*Holland Simpſon.*
*Benjamin Francis.*
Colonel *Matthew Thomlinſon.*
*Griffith Bodurdo* Eſq;
*Samuel Bordman.*
*Robert Carr* Eſq;
*Richard Young.*
Sir *Parbeck Temple.*
*John Ruſhworth* Eſq;
*John Gerrard*
*John Hearn.*
Mr. *Coitmore.*
Mr. *Cunningham.*
Mr. *Clench.*
*William Jeſſop* Eſq;
*Edward Auſtin.*
*Darnel* Eſq;
Mr. *Brown.*
*Thomas Tongue.*
*John Bowler.*
Mr. *Sharp.*
Mr. *Lee.*
*Robert Ewer.*
*John King.*
*Edward Jolley.*
Mr. *Gouge.*
*Anthony Mildmay* Eſq;

The *Grand Jury* returned the Indictment *Billa Vera.*

The *Court* adjourned to the *Old-Bailey*, 10th of *October*,

The

## The 10. of *October*; 1660.

SIR *John Robinſon*, Knight, *Lieutenant* of his Majeſties *Tower of London*, according to his *Warrant* received, delivered to Mr. *Sheriff* the Priſoners hereafter named; who were (in ſeveral Coaches) with a ſtrong Guard of Horſe, and Foot conveyed to *Newgate*, and about nine of the clock in the Morning, delivered to the Keepers of that Priſon, and thence brought to the *Seſſions-houſe* in the *Old-Baily*, *London*, where the Commiſſioners of *Oyer*, and *Terminer*, were in Court aſſembled, and where their *Indictment* was publickly read by *Edward Shelton* Eſq; *Clerk of the Crown*.

*Seſſions-Houſe*, in the *Old-Baily*, 10. *October*, 1660.

THE Court being Aſſembled, and Silence commanded, the *Commiſſion* of *Oyer* and *Terminer*, was again read. After which Sir *Hardreſs Waller*, Colonel *Thomas Harriſon*, and Mr. *William Heveningham* were brought to the *Bar*, and commanded to hold up their Hands: which Sir *Hardreſs Waller*, and Mr. *Heveningham* did; but *Harriſon*, being commanded to hold up his Hand, anſwered, *I am here*: and ſaid,

*My Lord, if you pleaſe, I will ſpeak a Word*——

*Court.* Hold up your hand, and you ſhall be heard in due time. Mr. *Harriſon*, the courſe is, That you muſt hold up your hand firſt. *And then he held up his hand.*

The *Indictment* was read, purporting; That *He, together with others, not having the fear of God before his Eyes, and being inſtigated by the Devil, did Maliciouſly, Treaſonably, and Felonioufly, contrary to his due Allegiance, and bounden Duty, ſit upon, and condemn our late Soveraign Lord, King* Charls the Firſt, *of ever Bleſſed Memory: and alſo did upon the thirtieth of* January, 1648. *Sign and Seal a Warrant for the Execution of His late Sacred and Serene Majeſty, of Bleſſed Memory. Where alſo*, &c.

*Clerk of the Crown.* How ſayeſt thou, Sir *Hardreſs Waller*? Art thou *guilty* of that Treaſon whereof thou ſtandeſt *Indicted*; and for which thou haſt now been Arraigned? or *Not guilty*.

Sir Hardreſs Waller. *My Lords, I dare not ſay*, Not guilty: *but, ſince that in a Buſineſs of this nature we have no councel or Advice, and being not able to ſpeak to matter of Law* ——

*Lord chief Baron.* I am loth to interrupt you: but this is the courſe; you have heard the *Indictment* read, and the courſe is, you muſt

Plead *guilty*, or *Not Guilty*. There is no *Medium*: *Guilty*. or *Not guilty*. It is that which is the Law, and the caſe of all men. Are you *guilty*? or *Not Guilty*?

Sir Hard. Waller. *I may confeſs my ſelf* Guilty *of ſome Particulars in that* Indictment, *but not of all: for ſo, inſtead of diſcharging, I ſhall wound my Conſcience.*

*Clerk.* Are you, *Guilty?* or *Not guilty?*

Sir Hard. Waller. *If I might have that Liberty to* ——

*Court.* You ſhall have that liberty, that any Subject of the Nation can have, or can challenge. No man, ſtanding at the Bar, in that condition you are, muſt make any other anſwer to the *Indictment*, then *guilty*, or *Not guilty*. It's the Common caſe of all men. Your Confeſſion muſt be Plain, and direct, Either *Guilty*, or *Not Guilty*.

Sir Hard. Waller. *My Lord, I do deſire ſome time to conſider of it: for it is a great Surpriſal.*

*Court.* You have had time enough to conſider of it; you muſt follow the Directions of the *Court*, *Guilty*, or *Not Guilty*? You muſt not thus Diſcourſe of being Surpriſed: for theſe Diſcourſes are contrary to all *Proceedings* of this Nature.

*Clerk.* How ſay you Sir *H. Waller*? Are you *guilty*, or *Not guilty*?

Sir Hard. Waller. *I dare not ſay*, Not guilty.

*Clerk.* Will you confeſs then?

Sir Hard. Waller. *I would be glad to be underſtood* ——

*Court.* Your plea muſt be direct: *guilty*, or *Not guilty*.

Sir Hard. Waller. *Shall I be heard, my Lord?*

*Court.* Yes, upon your Trial. There is but two ways. Plead *Not guilty*: or confeſs it. Sir *Hardreſs Waller*, we would not have you to be deceived. If you confeſs, and ſay, you are *guilty*: there is nothing then, but Judgment, If you ſay *Not guilty*; then you ſhall be heard with your Evidence. Conſider with your ſelf. Plead *Not Guilty:* or confeſs, and ſay, you are *guilty*.

Sir Hard. Waller. *My Lord, It puts me upon a great conteſt with my ſelf. I ſhall be very free to open my Heart* ——

*Court.* Sir, you muſt plead *Guilty*, or *Not Guilty*.

Sir Hard Waller. *My Lord, my condition differs from others. I am a Stranger,* I *have been theſe thirty years tranſplanted into* Ireland; *which ha's made me unacquainted with the affairs of the Law here.*

*Court.* You muſt keep to the courſe of the Law. Either *guilty*, or *Not*

*Not guilty*. There is but one of these two Pleas to be made.

Sir Hard. Waller. I *dare not say* Not guilty.

*Court*. There are but these three things to be considered. Either you must say *Guilty*, which is *Confession*, and then there remains no more, but *Judgment* : or *Not guilty* ; and then you shall be heard: or *Judgment* will pass for your standing *Mute*, which is all one, as if you had confessed.

Sir Hard. Waller. *In as much as* I *have said*, I *dare not say* Not Guilty : I *must say* Guilty.

*Clerk*. You say, you are *guilty*. You confess the *Indictment*.

Sir Hardress Waller. *Yes*.

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Clerk. *Thomas Harrison* How saiest thou? Art thou *guilty* of the Treason, whereof thou standest *Indicted*, and art now Arraigned? or *Not Guilty*.

Tho. Harrison. *My Lords, have* I *liberty to speak?*

*Court*. No more (at this time) then *Guilty*, or *Not Guilty*. Master *Harrison*, You have heard the Direction before. We can give you but the same *Rule*. If you plead *Not guilty* ; you shall be heard at large : if *Guilty* ; you know what remains.

Tho. Harrison. *Will you give me leave to give you my Answer in my own words.*

Lord *Chief Bar*. There is no answer but what the Law directs. It is the same with you, as with all others, or as I would desire, if I were in your condition. You must Plead *Not guilty* : or, if you confess *guilty*, there must be *Judgment* upon your confession. The same *Rule* for one, must be for another.

Tho. Harrison *You express your* Rule *very fair, as well to me, as this Gentleman* (pointing at Sir *Hardress Waller*) *but* I *have something to say to your Lordships, which concerns your Lordships as well as my self.*

*Court*. You must hold, and plead *guilty*, or *Not guilty*. If you go otherwise (as I told you before) it will be, as if you pleaded not at all, and then *Judgment* will pass against you. The Law gives the words, frames your Answer, it is none else, but the Laws, *Guilty*, or *Not Guilty*.

Tho. Harrison. *My Lord*, I *have been kept close Prisoner near these three Moneths, that no body might have Access to me. Do you call me to give you a Legal Answer ; not knowing of my Trial till nine of the clock last night, and brought away, from the* Tower, to this place, *at six of the clock in this morning.*

*Court.* You must give your direct Answer, *Guilty*, or *Not guilty*. You cannot say, it is sudden, or unprovided. You spend time in vain. You trouble the Court. You must Plead *Guilty*, or *Not Guilty*. We must not suffer you to make Discourses there. You must Plead either *Guilty*, or *Not Guility*

*Clerk.* Are you *guilty?* or *Not guilty?*

Tho. Harrison. I *am speaking — Shall I not speak two words?*

*Court.* If you will not put your self upon your Tryal, you must expect that course, that the Law directs.

Tho. Harrison. *May it please your Lordships, I am now* ——

*Clerk.* Are you *guilty*, or *Not Guilty?*

Tho. Harrison, I *desire to be advised by the Law. This is a special Case.*

*Court.* The l aw allows nothing now; but to plead *guilty*, or *Not guilty.*

*Court.* You must plead to your *Indictment.* If it be Treason, it cannot be justified; if it be justifiable, it is not Treason: Therefore Plead *guilty*: or *not guilty.*

Tho. Harrison. *Give me advice in this*——

Clerk. *Tho. Harrison*, Are you *guilty?* or *Not Guilty?*

Tho. Harrison, I *would willingly render an account of all my Doings*——

*Clerk.* Are you *Guilty?* or *Not guilty?*

*Court.* You have been acquainted with the Legal Proceedings. You never found in all your Experience; that any Prisoner at the Bar, for Felony, or Treason, was suffered thus to discourse, or to answer otherwise, then *guilty*, or *Not guilty.*

*Clerk.* Are you *guilty*, or *Not guilty?*

Mr. Sol. Gen. I *do beseech your Lordships, he may Plead. Peradventure he knows his case so well; that he thinks it as cheap to defie the Court, as Submit to it.*

*Court.* We must enter your standing *Mute*: thats *Judgment.*

*Clerk.* Are you *guilty*, or *Not guilty?*

Tho. Harrison. *Will you refuse to give me any Satisfaction* ——

*Court.* Are you *guilty*, or *Not guilty?*

Tho. Harrison. *Will you giue me your Advice?*

*Court.* We do give you Advice. The Advice is: there is no other Plea; but *guilty*, or *Not guilty.* You shall be heard, when you have put your self upon your Trial.

*Clerk.* Are you *guilty?* or *Not guilty?*

Tho. Harrison. *You do deny me Councel, then* I *do plead* Not guilty.

*Cler*

*Clerk.* You plead *Not guilty.* Is this your Plea?

Th. Harriſon. *Yes.*

*Clerk.* How will you be tried?

Th. Harriſon. *I will be tryed according to the Laws of the Lord.*

*Clerk.* Whether by *God*, and the *Countrey*?

Lord chief Baron. *Now I muſt tell you: if you do not put your ſelf upon your Countrey; you have ſaid nothing.*

*Clerk.* How will you be tried?

Th. Harriſon. *It is to put my ſelf upon what you pleaſe to put me upon.*

*Court* If you underſtand (you are not every man, you are verſed in Proceedings of Law) you know, you muſt put you ſelf upon the Trial of *God*, and your *Countrey*: if you do not; it is as good, as if you had ſaid nothing.

Th. Harriſon, *You have been miſinformed of me* ——

*Court.* You have pleaded *Not guilty.* That, which remains, is; you muſt be tried by *God*, and the *Countrey*: otherwiſe, we muſt Record your ſtanding *Mute.*

*Clerk.* How will you be Tried?

Th. Harriſon. *I will be tried according to the ordinary courſe.*

*Clerk.* Whether by God, and the Countrey? You muſt ſpeak the Words.

Th. Harriſon. *They are vain words* ——

*Court.* We have given you a great deal of Liberty, and Scope; which is not uſual. It is the courſe, and proceedings of Law; if you will be tried, you muſt put your ſelf upon *God*, and the *Countrey.*

*Clerk.* How will you be tried?

Th. Harriſon. *I do offer my ſelf to be Tried in your own way, by* God *and my* Countrey.

*Clerk.* God ſend you a good deliverance.

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Clerk. *William Heveningham*, hold up your hand. How ſayeſt thou, Art thou *Guilty* of the Treaſon, whereof thou ſtandeſt *indicted*, and art now arraigned? or *Not guilty?*

Will. Heveningham. *Not guilty.*

*Clerk.* How will you be Tried?

Will. Heveningham, *By* God, *and the* Countrey.

*Clerk.* God ſend you a good deliverance.

Sir

Sir Hard. Waller *then preſented his Petition to the Court, directed,* To the Kings Majeſtie, and the Parliament: *which was received; but not at this Court read. And then the three Perſons aforeſaid were diſmiſſed.*

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*Clerk*, Bring to the Bar *Iſaac Pennington* Eſq; *Henry Marten* Eſq; *Gilbert Millington* Gentleman, *Robert Tichborn* Eſq; *Owen Rice*, Eſq; and *Robert Lilburn* Gentleman, Who were called, and appeared at the Bar, and, being commanded ſeverally, held up their hands.

*The* Indictment *was read again, as to the former Perſons.*

Clerk. *Iſaac Pennington*, Hold up thy hand. How ſayeſt thou? Art thou *guilty* of the Treaſon, whereof thou ſtandeſt *Indicted*, and art now Arraigned? or *Not guilty*?

Iſaac Pennington. *Not guilty*, my Lord.

*Clerk.* How will you be tryed?

Iſaac Pennington. *By God, and the Countrey.*

*Clerk.* God ſend you a good deliverance.

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Clerk. *Henry Martin*, How ſayeſt thou? Art thou *guilty* of the Treaſon, whereof thou ſtandeſt *Indicted*, and art now Arraigned? or *Not guilty*?

Hen. Marten. *I deſire the benefit of the Act of* Oblivion ——

*Clerk.* Are you *guilty*? or *Not guilty*?

*Court.* You are to underſtand, the Law is this, the ſame to you, and every one; You are to plead *Guilty*, or *Not guilty*. If you will demand the benefit of the *Act of Oblivion*; it is a confeſſion of being *Guilty*.

Hen. Marten. *I humbly conceive the Act of* Indempnity ——

*Court.* You muſt plead *Guilty*, or *Not guilty*.

Hen. Marten. *If I plead, I loſe the benefit of that* Act.

*Court.* You are totally excepted out of the *Act*.

Hen. Marten. *If it were ſo I would Plead. My name is not in that* Act.

Court. *Henry Martin* is there.

Mr. Sollicitor Gen. *Surely he hath been kept cloſe Priſoner indeed, if he hath not ſeen the* Act of Indemnity. *Shew it him.*

Mr.

Mr. *Shelton* opening the *Act*;

*Court.* How is it written?

*Clerk.* It is *Henry Martin.*

*And then the* Act *was shewed to the said* Mr. Marten.

*Hen. Marten.* Henry Martin? *My name is not so: it is* Harry Marten.

*Court.* The difference of the Sound is very little. You are known by that Name of *Martin.*

Hen. Marten. *I humbly conceive all* Penal Statutes *ought to be understood Literally.*

*Clerk.* Are you *Guilty*, or *Not guilty*?

Hen. Marten *I am not* Henry Martin.

*Clerk.* Are you *guilty*, or *Not guilty*?

*Court.* Be advised. The effect of this Plea will be *Judgement.*

Here Mr. Sollicitor Gen. cited somewhat Parallel to this, in a *Case* formerly of *Baxter*; where the Name was *Bagster*, with an *S*; and adjudged all one, being of the same sound.

*Clerk.* Are you *guilty*? or *Not guilty*?

Hen. Marten. *My Lord, I desire Councel. There will arise Matter of Law, as well as Fact.*

*Court.* You are *Indicted* for *Treason*; for a Malicious, Traytcrous compassing, and Imagining the King's Death. If you have any thing of Justification, plead *Not guilty*; and you shall be heard: for, if it be Justifiable, it is not *Treason.* The *Rule* is, Either you must plead *Guilty*, and so Confess; or *Not guilty*, and put your self upon your Trial: there is no *Medium.*

Hen. Marten. *May I give any thing in* Evidence *before* Verdict?

*Court.* Yes, upon your Trial, you may give any thing in *Evidence*, that the Law warrants to be *lawful Evidence.*

*Clerk.* Are you *Guilty*, or *Not guilty*?

*Court.* Understand one thing; because I would not have you mistaken: you cannot give in *Evidence* the *Misnomer*; but any thing to the matter of *Fact.*

Hen. Marten. *I submit, and plead* Not guilty.

*Clerk.* How will you be tried?

Hen. Marten. *By God, and the Countrey.*

*Clerk.* God send you a good deliverace.

*Clerk.*

Clerk. *Gilbert Millington*, Hold up your hand. How ſaieſt thou? Art thou *Guilty* of the Treaſon, whereof thou ſtandeſt *indicted*, and art now arraigned? or *Not guilty*?

Gilb. Millington, *My Lord, I am an ancient man, and deaf. I humbly crave your Lordſhips pardon, to hear me a few words. I will promiſe, it ſhall be* pertinent *enough*

*Mr. Sol. Gen.* Impertinent enough, *he means.*

*Court.* You muſt plead either *Guilty*, and ſo confeſs it, or *Not guilty*, and then you ſhall be heard any thing for your juſtification.

*Clerk.* Are you *Guilty*? or *Not guilty*?

Gilb. Millington. *I deſire I may* ——

*Court.* There is nothing, you can ſay, but *Guilty*, or *Not guilty*. All other Diſcourſes turn upon your ſelf.

*Clerk.* Are you *Guilty*? or *Not guilty*?

Gilb. Millington. *You might enlighten me in ſome ſcruples. Does my pauſe trouble you much? I ſhould not be long.*

*Court.* Your particular caſe cannot differ from others.

*Clerk.* Are you *Guilty*? or *Not guilty*?

Gilb. Millington. *There are ſome things in the Indictment, that I can ſay* Not Guilty *to. There are others, that I muſt deal ingenuouſly, and confeſs them.*

*Clerk.* Are you *Guilty*, in Manner, and Form, as you are indicted? or *Not guilty*?

Gilb. Millington. *Not guilty.*

*Clerk.* How will you be tried?

Gilb. Millington. *By* God, *and the* Countrey.

*Clerk.* God ſend you a good deliverance.

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Clerk. *Robert Tichborn*, Hold up your hand, How ſaieſt thou? Art thou *Guilty* of the Treaſon, whereof thou ſtandeſt indicted, and art now arraigned? or *Not guilty*?

Tichborn. *My Lord, I have been a very cloſe Priſoner, without any advice. I am altogether unable in Law to ſpeak.*

*Court.* You know the Courſe hath been delivered to you by others, I will not trouble you with it. It is neither long, nor ſhort: the Law requires your anſwer, *Guilty*, or *not guilty.*

Tichborn. *Spare me but one Word. If, upon the Trial, there ſhall appear to be matter of Law, ſhall I have the liberty* of Councel *for it? if*

I

*I ſhall be put, in my own Caſe, to Plead matter of Law againſt thoſe noble Perſons, who Plead on the other part: I ſhall but prejudice my ſelf, and therefore I crave* Councel.

*Court.* You muſt Plead *Guilty*, or *Not guilty*.

Tichbourn. *I have no Reaſon, nor Deſign to diſpleaſe you. I am ſure, I am no waies able to Plead with equalneſs, in Point of* Law, *with thoſe Noble Gentlemen. To the Matter of* Fact, *this is my Plea;* In Manner, and Form, that I ſtand Indicted, I am *Not guilty.*

*Clerk.* How will you be Tried?

Tichbourn. *By* God, *and the* Countrey.

*Clerk.* God ſend thee a good Deliverance.

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*Clerk. Owen Roe,* Hold up your Hand. How ſaieſt thou? Art thou Guilty of the Treaſon, whereof thou ſtandeſt *Indicted*, and art now Arraigned, or *Not guilty*?

Owen Roe. *My Lord, there hath been ſo much ſaid already by others; I think, I need ſay no more.* In Manner, and Form, as I am now Indicted, *I* Plead *Not Guilty.*

*Clerk.* How will you be Tried?

Owen Roe. *By* God, *and the* Countrey.

*Clerk.* God ſend you a good Deliverance.

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Clerk. *Robert Lilburn,* Hold up your Hand. How ſaieſt thou? Art thou *Guilty* of the Treaſon, whereof thou ſtandeſt *Indicted*, and art now Arraigned? or *Not guilty*?

Robert Lilburn. *I deſire, in regard that, being ſo cloſe a Priſoner for ſeven daies, that no body ha's been ſuffered to adviſe with me* ——

*Lord Chief Barron.* I muſt interrupt you. You muſt not miſpend the time. Underſtand the Law. You muſt Plead *guilty*, or *Not guilty.*

Rob. Lilburn. *Will you give me leave to deſire Councel before I Plead, to adviſe me touching my Plea.*

*Clerk.* Are you *Guilty*? or *Not guilty*?

Rob. Lilburn. *I deſire Councel* ——

*Court.* Take heed; if that be your Anſwer, *You deſire Councel*, and do not Plead, and that be Recorded, *Judgment* will paſs againſt you. There is nothing to Plead; but *Guilty*, or *Not guilty.* If *Not guilty*; what you have to ſay will be heard.

Rob. Lilburn. *If you over-rule me, I muſt ſubmit.*

*Court.* Do not let ſuch Language fall from you: it is improper here.

The *Law* gives us a *Rule*; *The Prisoner must Plead* Guilty, *or* Not guilty.

Rob. Lilburn. *I say then, in* Manner, *and* Form, *as I am Indicted, I am* Not guilty.

*Clerk.* How will you be Tried?

Rob. Lilburn. *By* God, *and the* Countrey.

*Clerk.* God send you a good Deliverance.

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*Clerk.* Bring to the Bar *Adrian Scroop, John Carew, John Jones, Thomas Scot, Gregory Clement,* and *John Cook.*

*Who were brought accordingly, and, being commanded, severally held up their hands at the* Bar.

*The* Indictment *was read to the Persons at the* Bar, *as before.*

Clerk. *Adrian Scroop,* Hold up thy Hand. How saiest thou? Art thou *Guilty* of the Treason, whereof thou standest *Indicted,* and art now Arraigned? or *Not guilty?*

Adr. Scoop. *My Lord.* Not guilty.

*Clerk.* How will you be Tried?

Adr. Scroop. *By* God, *and the* Countrey.

*Clerk.* God send thee a good Deliverance.

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Clerk. *John Carew,* Hold up thy Hand. How saiest thou? Art thou *Guilty* of the Treason, whereof thou art *Indicted,* and art now Arraigned? or *Not guilty?*

John Carew: *There is some special matter in that* Indictment, *that ought not to be before* ——

*Court.* Are you *Guilty,* or *Not guilty?*

John Carew. *Saving to our Lord* Jesus Christ *his Right to the Government of these Kingdoms* ——

*Clerk.* Are you *Guilty?* or *Not guilty?*

John Carew. *I say, I am* Not guilty?

*Clerk* How will you be Tried?

John Carew. *How would you have me?*

*Clerk.* Will you be Tried by *God,* and the *Countrey?*

John Carew. *I, if you will.*

*Clerk.* You must say the words. How will you be Tried?

John Carew. *By* God, *and the* Conntrey.

*Clerk.* God send you a good Deliverance.

Cle

Clerk. *John Jones*, Hold up thy Hand. How saiest thou? Art thou *Guilty* of the Treason, whereof thou standest *Indicted*, and for which thou art now Arraigned? or *Not guilty*?

*John Jones*. Not Guilty, *my Lord*.

*Clerk*. How will you be Tried?

John Jones. *By* God, *and the* Countrey.

*Clerk*. God send you a good Deliverance.

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Clerk. *Thomas Scot*, Hold up thy Hand. How saiest thou? Art thou *Guilty* of the Treason, whereof thou standest *Indicted*, and for which thou art now Arraigned? or *Not guilty*?

Th. Scot. *Truly, I cannot call it* Treason: *and therefore I Plead* Not guilty.

*Clerk*. How will you be Tried?

Th. Scot. *By* God, *and the* Countrey.

*Clerk*. God send you a good Deliverance.

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Clerk. *Gregory Clement*, Hold up your Hand. How saiest thou? Art thou *Guilty* of the Treason, whereof thou standest *Indicted*, and for which thou art now Arraigned? or *Not guilty*?

Greg. Clement. *My Lord, I cannot excuse my self in many Particulars: but, as to my* Indictment, *as there it is, I Plead* Not Guilty.

*Clerk*. How will you be Tried?

Greg. Clement. *By* God, *and the* Countrey.

*Clerk*. God send you a good Deliverance.

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Clerk. *John Cook*, Hold up thy Hand. How saiest thou? Art thou *Guilty* of the Treason, whereof thou standest *Indicted*, and for which thou art now Arraigned? or *Not guilty*?

John Cook. *I humbly conceive, that this is now time to move for* Councel *for matter of* Law ——

*Court*. You know too well the manner of the *Court*. Are you *Guilty*? or *Not guilty*?

John Cook. *Not guilty?*

*Clerk*. How will you be Tried?

John Cook. *By* God, *and the* Countrey.

*Clerk*. God send you a good Deliverance.

*Clerk.* Bring *Edmund Harvey*, *Henry Smith*, *John Downs*, *Vincent Potter*, and *Auguſtine Garland*, to the Bar.

*Who were brought accordingly, and, being commanded, ſeverally held up their Hands. The* Indictment *was read to them.*

Clerk. *Edmund Harvey*, Hold up your Hand. How ſaieſt thou? Art thou *Guilty* of the Treaſon, whereof thou ſtandeſt *Indicted*, and for which thou art now Arraigned? or *Not guilty*?

*Edmund Harvey.* Not guilty, *my Lord.*

*Clerk.* How will you be Tried?

Edmund Harvey. *By* God, *and the* Countrey.

*Clerk.* God ſend you a good Deliverance.

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Clerk. *Henry Smith*, Hold up thy Hand. How ſaieſt thou? Art thou *Guilty* of the Treaſon, whereof thou art *Indicted*, and for which thou art now Arraigned? or *Not guilty*?

*Henry Smith.* Not guilty, *my Lord.*

*Clerk.* How will you be Tried?

Henry Smith. *By* God, *and the* Countrey.

*Clerk.* God ſend you a good Deliverance.

John Downs, Vincent Potter, Auguſtine Garland, *upon the Queſtion, preſently Pleaded* Not guilty, *and put themſelves on* God, *and the* Countrey, *to be Tried.*

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*Clerk.* Set to the Bar *George Fleetwood*, *Simon Meyn*, *James Temple*, *Peter Temple*, *Thomas Wayt*, *Hugh Peters*, *Francis Hacker*, & *Daniel Axtel.*

*Who being at the Bar, held up their Hands according to Order; afterward the Clerk read the* Indictment *againſt the ſaid Perſons. Which being ended, he proceeded in this manner,*

Clerk. *George Fleetwood*, Hold up thy Hand. What ſaieſt thou? Art thou *guilty* of this horrid Treaſon, whereof thou ſtandeſt *Indicted*, and art now Arraigned? or *Not guilty*?

George Fleetwood. *My Lord, I came in upon his Majeſtie's* Proclamation.

*Clerk.* Art thou *Guilty*? or *Not guilty*?

George Fleetwood. *I muſt Confeſs, I am* Guilty? (*And thereupon he delivered a* Petition *in, to the* Court; *which he ſaid was directed* To his Majeſty, and the Parliament: *and the* Court *did receive it accordingly.*)

*Clerk.* Set him aſide.

Clerk. *Simon Meyn*, Hold up thy Hand, What ſaieſt thou? Art thou

thou *Guilty* of this horrid Treason, whereof thou standest *Indicted*, and art now Arraigned? or *Not guilty*?

*Sim. Meyn.* Not guilty. *I came in upon His Majestie's* Proclamation, *my Lord.*

*Clerk.* How wilt thou be Tried?

Sim. Meyn. *By* God, *and the* Countrey.

*Clerk.* God send thee a good Deliverance.

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Clerk. *James Temple*, Hold up thy Hand. What saiest thou? Art thou *Guilty* of this horrid Treason, whereof thou standest *Indicted*, and art now Arraigned? or *Not guilty*?

James Temple. *Not guilty*?

*Clerk.* How wilt thou be Tried?

James Temple. *By* God, *and the* Countrey.

*Clerk.* God send thee a good Deliverance.

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Clerk. *Peter Temple*, Hold up your Hand. How saiest thou? Art thou *guilty* of the Treason, whereof thou standest *Indicted*, and for which thou art now Arraigned? or *Not guilty*?

Peter Temple. *Not guilty.*

*Clerk.* How wilt thou be Tried?

Peter Temple. *By* God, *and the* Countrey.

*Clerk.* God send thee a good Deliverance.

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Clerk. *Thomas Wayt*, Hold up your Hand. How saiest thou? Art thou *guilty* of the Treason, whereof thou standest *Indicted*, and for which thou art now Arraigned? or *Not guilty*?

Th. Wayt. *I desire to be heard a word, or two,* ——.

*Court.* There is a *Rule* of *Law*, which is set to us, and you; that, in all these *Cases*, you are to Plead *Guilty*, or *Not guilty*. When you have Pleaded: if *Not guilty*; you may speak what you will in its proper Time.

*Clerk.* Are you *Guilty*? or *Not guilty*?

Th. Wayt. *I pray, let me be heard a word. I am very unwilling to spend time; knowing you have a great deal of Business. I am very unwilling to deprive my self of my Native Right. I shall speak nothing, but that, which is Truth.*

*Court.* Do not *Preface* then; but speak what you would say.

Th.

Th. Wait. *My Lord, my Caſe is different from the reſt.*

*Court.* Whatſoever the *Caſe* be, you have no *Plea* to us; but *guilty*, or not *Not guilty*. We can go no other way. The *Law* ſets out your *Plea.*

Th. Wayt. *My Lord, I would ſpeak one word. There was a Great* Peer *of this Nation Indicted at* North-hampton, *within theſe two years, for killing a man. The* Judges *there* ——

*Court.* You muſt Plead *guilty*, or *Not guilty.* Pray, who are you, that you ſhould take this upon you more then all the reſt? You muſt go the ordinary way; *guilty*, or *Not guilty.* Are you *guilty*? or *Not guilty?* We do not intend to prevent any thing you have to ſay: but it muſt be proper.

*Clerk.* Are you *guilty*? or *Not guilty.*

Th. Wait. *I cannot ſay, I am* Guilty.

*Court.* How then?

Th. Wait. *I am* Not guilty.

*Clerk.* How wilt thou be Tried?

Th. Wait. *By God, and the* Countrey.

*Clerk.* God ſend thee a good Deliverance.

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Clerk. *Hugh Peters,* Hold up thy Hand. How ſaieſt thou? Art thou *guilty* of the Treaſon, whereof thou ſtandeſt *Indicted*, and for which thou art now Arraigned? or *Not guilty*?

Hugh Peters. *I would not for ten thouſand Worlds ſay, I am* Guilty. *I am* Not guilty.

*Clerk.* How wilt thou be Tried?

Hugh Peters. *By the Word of God.* (*Here the People laughed.*)

*Court.* You muſt ſay, *By God, and the Countrey.* Tell him you, that ſtand by him, what he ſhould ſay, if doth not know.

*Clerk.* How wilt thou be Tried?

Hugh Peters. *By* God, *and the* Countrey.

*Clerk.* God ſend thee a good Deliverance.

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Clerk. *Dan. Axtel,* Hold up thy Hand. What ſaieſt thou? Art thou *guilty* of the Treaſon, whereof thou ſtandeſt *Indicted*, and for which thou art now Arraigned? or *Not guilty*?

Dan. Axtel. *May it pleaſe your Lordſhips, I deſire to have the freedom of an* Engliſh-*man; that which is my Right by Law, and Inheritance. I*

*have*

*have ſomething to offer in point of* Law.

Clerk. Art thou *Guilty*? or *Not guilty*?

Dan. Axtel. *My* Lords, *give me leave to ſpeak. For the Matter of the* Indictment *I conceive is upon the King's Death: that there is a* Commiſſion *of* Oyer, *and* Terminer, *for you to ſit. But, in regard it was in purſuance of an* Act *of* Parliament, *I conceive no* Inferiour Court *ought to judg of it. I deſire* Councel: *it being of great, and eminent Concernment in Law; That ever any* Judges, *or any* Inferiour Court, *ſhould judg of the Powers, and Privileges, of a* Parliament: *and I pray, that* Councel *may be aſſigned me.*

*Clerk.* Are you *Guilty*? or *Not guilty*?

Dan. Axtel. *If the* Court *over-rule me, and I ſhall not have my Liberty, as an* Engliſh-*man* ——

*Court.* The Courſe of *Law* is this; *No man can Juſtifie Treaſon.* If the matter, which you have to ſay, be Juſtifiable; it is not Treaſon: if Treaſon; it is not Juſtifiable. Therefore you muſt go to the ordinary courſe of the *Law.* You muſt Plead *Guilty*, or *Not guilty.*

Dan. Axtel. *I can produce many* Preſidents ——

*Court.* Are you *Guilty*? or *Not guilty*? The Language is put into your Mouth. You have no other Words to expreſs your ſelf by, at this time; but *Guilty*, or *Not guilty.*

*Dan. Axtel.* Judg Heath *had* Councel *aſſigned him upon the ſame* Caſe.

*Court.* That is very ſtrange: the *ſame Caſe.* What, was it for killing a King?

Dan. Axtel. *If the* Court *will over-rule me, I cannot help it.*

Mr. *Sollicitour Gen.* It may be this *Gentleman* may be deceived by a Miſtake. It may be he knows not the *Law*, which your Lordſhips may be pleaſed to acquaint him with: That, to ſtand *Mute* in High-Treaſon, is all one, as to *Confeſs* the Fact, and will have the ſame *Sentence*, and Condemnation, upon them, as if they had Confeſſed it.

Lord Chief Baron. *Then I'le tell you the Law*, He, that doth refuſe to put himſelf upon his Legal Trial of *God*, and the *Countrey*, is a *Mute* in Law: *and therefore you muſt Plead* Guilty, *or* Not guilty. *Let his Language be what it will, he is a* Mute *in Law.*

Dan. Axtel. *I do not refuſe it.*

*Court.* Then ſay.

Dan. Axtel. *I am* Not guilty.

*Clerk.* How wilt thou be Tried?

Dan.

Dan. Axtel. *By twelve lawfull men, according to the Conſtitutions of the Law.*

*Court.* That is by *God*, and the *Countrey*.

Dan. Axtel. *That is not lawfull, God is not locally here.*

*Clerk.* How wilt thou be Tried? You muſt ſay, *By God, and the Countrey.*

Dan. Axtel. *By* God, *and the* Countrey.

*Clerk.* God ſend you a good Deliverance.

*Lord Chief Baron. Mr.* Axtel, *have you your Papers again?*

*Dan. Axtel.* Yes, *my Lord.*

*Lord Chief Baron. When your* Indictment *is read the ſecond time, when you come to your Trial, you may take what Notes you pleaſe.*

*The* Court *then Adjourned to the ſame Place, till the next morning, ſeven of the Clock.*

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*October* 11th. 1660.

The *Court* being Aſſembled; the *Keeper* was commanded to ſet the *Priſoners* to the *Bar*.

*Thomas Harriſon, Adrian Scroop, John Carew, John Jones, Gregory Clement, Thomas Scot*, were brought to the *Bar* accordingly. After which Silence was Commanded.

*Court.* You, that are *Priſoners* at the *Bar*, if you, or any of you deſire *Pen, Ink*, and *Paper*, you ſhall have it: and, if you, or any of you, will Challenge any of the *Jury*, you may, when they come to be Sworn, and that before they are Sworn.

*Sir* Thomas Allen, *being called, was deſired to look on the Priſoner, and lay his Hand on the Book; his* Oath *was then read to him:* viz. You ſhall well and truly try, and true deliverance make between our Sovereign Lord the King, and the Priſoners at the Bar, whom you ſhall have in charge according to your Evidence. So help you God.

*Sir* Joſhua Aſh *being next called, Mr.* Scroop *excepted againſt him.*

*Sir* Jeremy Whichcot, *Baronet, being next to be Sworn, Mr.* Harriſon *excepted againſt him.*

James Halley *Eſquire, being next to be Sworn, Mr.* Scot *excepted againſt him.*

*Court.* If you will not agree (*ſpeaking to the Priſoners*) in your Challenges, we muſt be forced to Try you ſeverally.

Henry Mildmay, *Eſq; being called next, Mr.* Scroop *excepted againſt him.*

*Court.*

*Court.* We muſt needs Try them ſeverally; therefore ſet them all aſide, but *Harriſon.*

*Court.* Gentlemen, you, that are excepted, muſt not depart the *Court.*

*Sir* Joſhua Aſh, *being again called, was excepted againſt by* Mr. Harriſon.

Sir Jeremy Whichcot, *Baronet,*
James Hawley, *Eſq;*
Henry Mildmay, *Eſq;*
Chriſtopher Abdy, *Eſq;*
} *Being called again, were ſeverally excepted againſt by the Priſoner.*

*Court.* Mr. *Harriſon*, You know the Law. You muſt ſay, *I Challenge him.*

Mr. Harriſon. *I ſhall Sir.*

*Ralph Hartly* being next called, and being very ſick, humbly prayed to be excuſed by the *Court*, which was granted.

*Arthur Newman* was called next.

Mr. Harriſon *May I not ask of what Quality he is?*

*Court.* No, Sir. You are to Challenge him, or not to Challenge him.

Mr. Harriſon. *I Challenge him.*

*Thomas Blith* was next called, and alſo Challenged.

(*Here the People ſeemed to laugh.*)

Mr. Harriſon. *My Lord, I muſt make uſe of my Liberty in this Caſe.*

*Court.* God forbid

Then *Grover*, *Robert Clark*, and *Richard Whalley*, were called, and by Mr. *Harriſon* Challenged.

*Court.* Mr. *Harriſon*, you know how many to Challenge. If you go beyond the *Number*, at your own peril be it.

Mr. Harriſon. *My Lord, pray tell me what it is.*

*Court.* You ſay very well. God forbid, but you ſhould know. You may Challenge five and thirty *Peremptorily*. If you go beyond, you know the Danger.

Mr. Harriſon. *My Lord, I do not do this to keep you off from the Buſineſs.*

*William Vincent*, and *Henry Twiford*, were then called, and Challenged. *John Liſle* was next called.

Mr. Harriſon. *I do not know him.*

*Mr. Liſle.* Nor I you, Mr. *Harriſon. He was Sworn.*

*Thomas Franklin*, Sworn.

*Thomas Winter*, Challenged.

*Richard Nichol*, Sworn.

Moyce, *being ſick, prayed Excuſe: which was granted accordingly.*

*Richard Cheyney*, Challenged.

*Allen Parſons*, Challenged.
*Henry Edlin* called.
Mr. Harriſon *I Challenge him.*
Mr. Harriſon. *Let him be Sworn.*
*Court.* No, No. (*Whereupon he was ſet aſide.*)
Mr. Harriſon. *If I have any Apprehenſion, or knowledg, of them, that's the thing, that leads me to it: as touching* this *man, he may be* Sworn.
*Court.* When he is *Challenged*, he cannot be recalled.
Mr. Harriſon. *I am content.*
*Samuel Greenhill*, Sworn.
*Thomas Bide*, Challenged.
*John Page*, Challenged.
*Richard Rider*, Challenged.
Mr. Harriſon. *Leſt I may run into an Hazard, in making uſe of that Liberty, which the Law gives me in this Caſe; and having not taken Notice of any Perſons Challenged; I mean, as to the Number: I deſire your* Officer, *that takes Notice, may acquaint me with the Number.*
*Court.* You ſhall know it; God forbid the contrary.
*Edward Rolph* was called next.
Mr. Harriſon. *Mr.* Rolph *is his Name? Let him be ſworn; ſworn.*
*Francis Beal*, Challenged.
*John Kirk* Challenged.
*Charls Pitfield*, Challenged.
*John Smith*, Challenged.
*Bell*, Sworn.
*Edward Franklin*, Challenged.
*William Whitcomb*, Challenged.
*Samuel Harris*, Sworn.
*John Collins*, Challenged.
*Thomas Snow*, Sworn.
*William Blunt*, Challenged.
*George Rigth*, Challenged.
*John Nichol* of *Finchley*, Sworn.
*Timothy Taylor*, Challenged.
*Thomas Fruin*, Challenged.
*Richard Abel*, Challenged.
*Thomas Morris*, Sworn.
*Ambroſe Scudamore*, Challenged.

*Ralph Halſel*, Challenged.
*George Tirry*, Challenged.
*Court.* You have *Challenged* Thirty three already.
Mr. Harriſon. *I pray the* Names *may be read to me, to ſee, if it be ſo.*
*Court.* When you come to Thirty five, you ſhall have the *Names* read.
*John Galliard*, Challenged.
*Thomas Swallow*, Challenged.
*Court.* Now read their *Names* to him.
*Which were read accordingly. In all thirty five* Challenged.
*George Pickering* was next called, and *Sworn.*
Then they were called over, who were admitted: *viz.*
Sir *Thomas Allen*, *John Liſle*, *Thomas Francklin*, *Richard Nichol*, *Samuel Greenhil*, *Edward Rolph*, *Bell*, *Samuel Harris*, *Thomas Snow*, *John Nichol*, *Thomas Morris*, *George Pickering*: and Sworn.
*Proclamation* was then made.
*If any man can inform my Lords, the King's* Juſtices, *the King's* Serjeant, *or the King's* Attorney, *before this Inqueſt be taken; let them come forth, and they ſhall be heard: for now the* Priſoner *ſtands at the* Bar *upon his Deliverance. And all thoſe bound by* Recognizance *to appear, let them come forth, and give their* Evidence, *or elſe to forfeit their* Recognizance.
*George Maſterſon*, *James Nutley*, *Robert Coytmore*, *Holland Simſon*, and *William Jeſſop*, Witneſſes, were called.
*Court. Gentlemen*, that are not of the *Jury*, Pray, clear the Paſſage. The *Priſoner* is here for *Life*, and *Death*; let him have Liberty to ſee the *Jury.*
*Clerk.* Thomas Harriſon, *Hold up thy Hand.*
Clerk. *Look upon the* Priſoner, *you that are ſworn. You ſhall underſtand that the* Priſoner *at the Bar ſtands Indicted by the Name of* Thomas Harriſon, *late of* Weſtminſter *in the County of* Middleſex, *Gentleman*; *for that he, together with* John Liſle, *&c.* (Here the *Indictment* was read) *upon which* Indictment *he hath been Arraigned, and thereunto hath pleaded* Not Guilty, *and for his Trial hath put himſelf upon* God, *and the* Countrey: *which* Countrey *you are. Now your Charge is to enquire, whether he be* guilty *of the High Treaſon, in* Manner, *and* Form, *as he ſtands Indicted, or* Not guilty. *If you finde that he is* guilty, *you ſhall enquire, what Goods, and Chattels he had, at the time of committing the ſaid Treaſon, or at any time ſithence. If you finde, that he is* Not guilty;

*you ſhall enquire, whether he did fly for it: if you finde, that he fled for it, you ſhall enquire of his Goods, and Chattels, as if you had found him* Guilty: *if you finde, that he is* Not guilty, *nor that he did fly, you ſhall ſay ſo, and no more. And take heed to your* Evidence.

Mr. *Keeling* Enforced the *Charge* at large. After whom Sir *Heneage Finch*, His Majeſtie's *Sollicitour General*, in theſe words.

MAY it pleaſe Your Lordſhips, We bring before your Lordſhips, into Judgment this day, the *Murtherers of a King*. A man would think the Laws of *God*, and *Men*, had ſo fully ſecured theſe *Sacred* Perſons; that the *Sons of Violence* ſhould never approach to hurt them. For (*My Lord*) the very *Thoughts* of ſuch an Attempt hath ever been preſented by all *Laws*, in *all Ages*, and *all Nations* of the World, as a moſt unpardonable Treaſon. *My Lord*, This is that, that brought the two *Eunuchs* in the *Perſian*-Court to their juſt Deſtruction: *Voluerunt inſurgere*; ſaies the *Text*: and yet that was enough to *Attaint* them. And ſo (*My Lords*) it was by the *Romane* Laws too, as *Tacitus* obſerves; *Qui deliberant, deſciverunt*. To *Doubt*, or *Heſitate*, in a Point of *Allegiance*, is direct *Treaſon*, and *Apoſtaſie*. And upon this Ground it is, that the *Statute*, upon which your *Lordſhips* are now to proceed, hath theſe expreſs Words; *If a man doth Compaſs, or Imagine the Death of the King*, &c. Kings, who are *Goa's Vicegerents upon Earth*, have thus far a kind of Reſemblance of the *Divine* Majeſty; that their Subjects ſtand accountable to Them for the *very Thoughts* of their Hearts. Nor, that any Man can know the *Heart*, ſave God alone; but becauſe, when the *Wicked* Heart breaks out into any *open* Expreſſions, by which it may be judged, 'tis the *Thought* of the Heart, which makes the Treaſon: the *Overt-Act* is but the *Evidence* of it.

*My Lords*, This Care, and Caution, is not ſo to be underſtood; as if it were the *Single* Intereſt of *One* Royal Perſon onely. The Law doth wiſely judg, and foreſee, that upon the *Life* of the King depends the *Laws*, and *Liberties*, the *Eſtates*, and *Properties*, the *Wealth*, and *Peace*, the *Religion*, and, in Sum, the *Glory* of the Nation.

*My Lords*, This Judgment of the Law ha's been verified by a *ſad* Experience: for when that *Bleſſed King* (whoſe *Blood* we are now making *Inquiſition* for) was *untimely* taken away, *Religion*, and *Juſtice* both lay buried in the *ſame* Grave with Him: and there they had ſlept ſtill; if the *miraculous* Return of Our Gracious *Sovereign* had not given them a new *Reſurrection*.

My

*My Lords*, My Lord *Coke*, in his *Comment* upon this *Statute*, ha's one Conceit, which is ſomewhat *ſtrange*; I am ſure it is very *new*: he ſeems to think, that it would have added to the *Perfection* of this *Law*; if there had been a time limited for the *Party* to be accuſed. But certainly the work of this Day ha's quite confuted that *Imagination*. For here is a *Treaſon*, that ha's ſo long *out-faced* the *Law*, and the *Juſtice* of this Kingdom; that, if there had been any time of *Limitation* in the *Statute*, there would have been no *Time*, nor *Place*, left for *Puniſhment*. And, if this Treaſon had but once grown up to an *Impunity*, it might perhaps have drawn the *Guilt* of that *Innocent* Blood, and with it the *Vengeance* due to it, upon the whole Nation.

The *Scope* of this *Indictment* is; *for the Compaſſing the Death of the King*: the reſt of the *Indictment*, as the *Uſurping Authority over the King's Perſon*, the *Aſſembling*, *Sitting*, *Judging*, and *Killing* of the King, are but ſo many ſeveral *Overt-Acts* to prove the *Intention* of the Heart. We are not bound (under favour) to prove every one of theſe againſt *every* particular Perſon, who is *Indicted*: for he, that is in at *one*, is guilty in *Law* of *all* the reſt, as much, as if he had ſtruck the *Fatal Stroke* it ſelf. Nay (under favour) if we can prove any other *Overt-Act*, beſides what is laid in the *Indictment*, as the *encouraging* of the *Souldiers* to cry out, *Juſtice*, *Juſtice*; or *Preaching* to them to go on in *this Work*, as *Godly*, and *Religious*; or any other act of all that *Catalogue* of *Villanies*, for which the *Story* will be for ever *Infamous*: this may be given in *Evidence* to prove the *Compaſſing*, and *Imagining* the King's Death. The concluſion of this *Indictment* alledges the *Fact* done to be *to the great Diſpleaſure of Almighty God*, and *to the great Diſgrace of the People of* England. A *Truth* ſo clear, and known; that it can neither be *brightned* by any *Aggravation*, or *leſſened* by any *Excuſe*.

As for the *Fact* it ſelf, with the *Manner* of it, I ſhall not need to open it at large: for theſe things were not done in a *Corner*: every *true Engliſh* Heart ſtill keeps within it ſelf a bleeding-*Regiſter* of this *Story*: onely (*my Lords*) in the way to our *Evidence*, with your *Lordſhips* favour, this I think, may be fit to be ſaid.

Firſt, for the year 1648. (for that was the *Fatal* year of this King, and beyond that year we ſhall not now Enquire) I ſay whatſoever, in the *Year* 1648. could have been done by a *Parliament* to ſave the *Life* of a King, was done in this *Caſe*.

They opened the way to a *Treaty* in ſpight of the *Army*; and, while

theſe

theſe Sons of *Zeruiah*, who were too hard for them, were engaged in *Service*, in the *Remoter* Parts, they haſtened the *Treaty* as much, as was poſſible: the *Debates* ripen, His Majeſtie's *Conceſſions* were Voted a *good ground for Peace*: notwithſtanding the *Remonſtrances* of the *Army* ſtill flew about their *Ears*, and notwithſtanding the *Oppoſitions* of a fearfull, and unbelieving Party of the *Houſe of Commons*; whom the *Army* had frighted into an *Awfull*, and a *Slaviſh* Dependance upon them. And, when nothing elſe could be done *for* Him, they were ſo true to the *Obligations* they lay under, that they reſolved to fall *with* Him: and did ſo. For the *Army*, who ſaw the *Treaty proceed* ſo faſt, made as great haſte to *break* it. They ſeize upon the bleſſed *Perſon* of our Sacred King by *Force*, and bring Him to *London*; and here they force the *Parliament*; *ſhut out* ſome *Members*, *impriſon* others: and then called this wretched little Company, which was left, a *Parliament*. By this, and before they had taken upon them the Boldneſs to diſſolve the Houſe of *Peers*, they paſs a *Law*, and Erect, forſooth! an *High Court of Juſtice*, as they call it, a *Shambles* of Juſtice; appoint *Judges*, *Advocates*, *Officers*, and *Miniſters*; ſit upon the *Life* of the King. Now they *Speak out*, and *Expound* their own *Declarations*, and tell us what that was, which before they had demanded in obſcure Terms, when they called for *Juſtice* againſt *all Delinquents*. Now they ſpeak plainly what they mean, and call this bleſſed King, this glorious *Saint*, the *grand Delinquent*:

——— *Hæc Acies victum factura Nocentem eſt.*

*My Lords*, When they had thus proceeded to appoint their *Judges*, *Officers*, and *Court*, then they call *this* Perſon, their onely *Liege* Lord, and Sovereign, to the *Bar*, and, by a *formal Pageantry* of Juſtice, proceed to *Sit* upon Him, *Arraign*, *Try*, *Sentence*, *Condemn*, and *Kill* (I had almoſt ſaid *Crucifie*) Him, whom they could not but know to be their *King*. And all this againſt the *cleareſt* Light, the *ſharpeſt* Checks, and moſt *thorough* Convictions of *Conſcience*, that ever men reſiſted. And yet, in this *moment* of time, ſuch was the *Majeſty*, and *Innocence*, of our Gracious Sovereign; that the *People* followed Him with *Tears* in their *Eyes*, and *Acclamations* in their *Mouths*, *God ſave the King*; even then, when the *Souldiers* were ready to *fire* upon them who did either *look* Sadly, or *ſpeak* Affectionately. And yet it will appear upon our *Evidence* too; that ſo few of the very *Common Souldiers* could be brought to approve theſe *Proceedings*, or to cry out, *Juſtice*; that their *Officers* were fain by *Money*, or *Blows*, or both, to bring a great many to it.

*My*

*My Lords*, The *Actours* in this *Tragedy* were *many*, *very* many, *ſo* many; that ſure their Name is *Legion*, or rather many *Legions*. And certainly (*my Lords*) when we ſhall conſider the *Thing*, that they have done, we cannot but look upon it, as a *Villany*, which had in it all the *Ingredients* to make it deteſtable, that it was poſſible for a *Counſel* of *Men*, or *Divels* either, to put together. But yet, if any thing can be of a deeper Dy, then the *Guilt* of that *Sacred Blood*, wherewith they ſtand *Polluted*, me thinks, their *Impudence* ſhould make them more odious, then their *Treaſon*. It was the deſtruction of *God's Anointed*, in the Name of the *Lord*. It was the Murther of a moſt bleſſed, and beloved *Prince*, in the Name of His *People*. Him, whom they had taken the tranſcendent Boldneſs to *impriſon*, as the Authour of the *War*, they put to *Death*, becauſe He would have been the Authour of our *Peace*: and that with ſo much *Scorn*, and *Indignity*, that ſome of them were not aſhamed to *ſpit* in the *Face* of our Lord, and Sovereign. And when they had thus *quenched the Light of* Iſrael: *Darkneſs*, and *Confuſion*, did over-ſpread the face of the *Land*: many poor *Subjects* at *Home*, and ſome *Proteſtants* in *Foreign* Nations, at the very *News* of it fell down *Dead*; as if this excellent King had been in a *Natural*, as well as a *Religious* ſence, *the Breath of our Noſtrils*, the *Anointed of the Lord*, who was *taken in their Pits*. The *Judges*, *Officers*, and other Immediate *Actours* in this pretended *Court*, were in number about fourſcore. Of theſe ſome four, or five, and twenty are dead, *and gone to their own place*. The *God of Recompenſes* hath taken the matter ſo far into His Own Hands: and who knows, but that it might be one dreadfull part of His *Vengeance*, that they died in *Peace*? Some ſix, or ſeven of them, who are thought to have ſinned with leſs *Malice*, have their *Lives* ſpared, indeed, but are like to be brought to a ſevere *Repentance* by future *Penalties*. Some eighteen, or nineteen, have *fled* from Juſtice, and *wander* to and fro, about the World with the *Mark* of *Cain* upon them, a *Perpetual trembling*, leſt every *Eye* that ſees them, and every *Hand* that meets them, ſhould fall upon them. Twenty nine Perſons do now expect your *Juſtice*. Amongſt them the firſt, that is brought, is the *Priſoner* at the *Bar*, and he deſerves to be the firſt; for, if any Perſon, now left alive, ought to be ſtiled the *Conductour*, *Leader*, and *Captain* of all this Work, that's the *Man*. He (*my Lord*) brought the King up a *Priſoner* from *Windſore*, but *how*, and in *What manner*, with how *little Duty*, nay, with how *little Civility* to a common Perſon, you will

hear

hear in time. He *Sate* upon Him, *Sentenced* Him, he *Signed* the *Warrant*, firſt to *call that Court* together, then the *bloody Warrant* to cut off His Sacred Head. Againſt him, as againſt all the reſt, our *Evidence* will be of two *ſorts*: Witneſſes, *Viva voce*; that ſhall firſt prove to your *Lordſhips*, that every Perſon now in *Queſtion* did *ſit* in that *Court*, when their King *ſtood*, as a *Priſoner*, at the Bar. We ſhall prove that the *Precipt*, by which this pretended Court was ſommoned, was not obeyed, and executed, till it had had the *hands*, and *ſeals*, of moſt of the pretended *Juages*: among the reſt, the *hand* of the Priſoner at the Bar will be found there. We ſhall prove his *hand* to the *bloody Warrant*, for ſevering the Sacred Head of our Bleſſed Sovereign from the Body; and then ſome *Circumſtances* of his Malice, and of his Demeanour. And after we have done with our Witneſſes *Viva voce*, if we have occaſion to uſe *Records* of *Parliament*, we ſhall ſhew them too; for we have the *Orignals*, or authentick *Copies*. But now we ſhall proceed to our *Evidence*.

*Proclamation* was made for Silence.

Sir *Edward Turner*. My Lords, *The ſervice of this day doth call to my Memory the* Story *of good King* Amaziah *We read in* Holy Writ, *that his Father, King* Joaſh, *was murthered, and murthered by His own Subjects: but We read further, that, when* Amaziah *had regained the Crown, was ſettled in the Government, He ſlew thoſe, that ſlew his Father. He did go down into* Edom, *the* Valley of Salt, *and there he did ſlay ten thouſand. The Work of this Day doth very much reſemble that Action. Our Good, and Gracious King, his Father of bleſſed Memory, and our Father, his natural, and our politick Father, to whom our natural Allegiance was due, was* murthered, *and by his own Subjects. But,* My Lords, *this was not a* National *Crime: and our Good, and Gracious, Sovereign hath done us that Honour, and Right to vindicate us in* Foreign *Nations; and now he is come* Home *in Power, and Glory, he does continue in the ſame Mind: that's the Reaſon we are not now ſlain by Thouſands; but that thoſe* Miſcreants, *are gathered up here, and there, that did commit the Offence, and would have involved the Nation in a common Infamy.*

Gentlemen *of the* Jury, *Your time to enquire of this Matter is precious, more precious then my Words; elſe I would repeat to you the* Hiſtory *of that* Tragedy; *at leaſt that* Summary, *that Was entred in the* Black Book, *or the* Journals *of that they then called a* Parliament, *It ſhall ſuffice to tell you, and that moſt truly; that it was but an handfull of men in reſpect*

respect of the whole Nation, that did contrive, and design, this damnable, and traiterous Plot, to subvert the Laws, and change the Government of this well-governed Nation. In prosecution of which they did cast abroad, and spread forth, Jesuitical Maxims, Damnable, and Diabolical Principles, to intoxicate the People; and, when their Heads were troubled, they were easily lead into Arms; where, after some time, they grew drunk with Successes: and, when they had drunk too much of the Loyal Blood of the People, then they thirsted for the Royal Blood also. I do confess, we read in Stories, that Kings have before this time been murthered: some in our Nation; as King Richard the Second, and Edward the Third: and in other Nations. But the Actours of those Murthers were modest to these. They did it in Private; these in the Face of the Sun, and the People: but it was those People, Gentlemen, they had corrupted with Shares in their Robberies, and Villanies. They pretended it was in a way of Justice: but, you must know, no Justice can be executed upon the Person of the King; Touch not mine Anointed, saith God himself.

My Lords, I do read in the Roman Story; that both amongst them, and other Nations, there was no Law against Parricide. It was not thought, that any man was so unnatural, and Devilish, to destroy his Father. But we do finde amongst the Romanes such a Fact was committed, and then they were at a loss to punish it. The way was this, that they found out: the Offendour they sewed into a Mail of Leather so close, that no Water could get in; when they had done, they threw him into the Sea: by this denoting; the Offendour was not worthy to Tread upon the Ground, nor to Breath in the Air, nor to have the benefit of any of the four Elements, nor the use of any of God's Creatures: and so he starved.

Gentlemen, Parricide, and Regicide, differ not in Nature, but in Degree. Parricide is the killing of the Father of one, or a few, Persons; Regicide, the Killing the Father of a Countrey. What Punishment then is suitable to this offence? Gentlemen, The Prisoner at the Bar is accused of this Offence, and now to be Tried by you: but, before we enter upon the Evidence, I must, with the leave of the Court, inform you; that, though the Indictment contains many Circumstances, and Gradations, in the Treason; yet the Imagining, and Compassing the Death of our late Sovereign, is the Treason, to which we shall apply our Evidence: this being, both by the Common-Law, and by the Statute of the 25th of Edward the 3d. the Principal Treason to be enquired of. And the other Circumstances in the Indictment are but so many matters to prove the Overt-Act. The Consultations, the assuming Power to Try, and Condemn the King, the Assault upon him, and the Fatal Blow, that was

*given him, are but ſo many Demonſtrations, and open Acts, proving the firſt Treaſonable Deſign of the Heart.*

*It will be enough for you, and ſo my Lords will tell you; if we prove the Treaſon it ſelf, which is the* Compaſſing, *and* Imagining *the Death of the King: though we fail in ſome of the* Circumſtances *laid in the* Indictment. *I do not ſpeak this, as if we ſhould fail in any: but it is not neceſſary to prove them all; if we prove any, you are to finde the Priſoner* Guilty. *I am not willing to hold your Lordſhips too long in the* Porch; *but deſire to deſcend into the* Body *of the Buſineſs: and ſo we ſhall call our* Witneſſes, *and doubt not, but to prove, that this Man at the* Bar *was the firſt, and not the leaſt of theſe* Offendours.

Mr. *George Maſterſon* was called.

Mr. Harriſon. *When I was before your Lordſhips yeſterday, I offered ſomething very material, in reference to the Juriſdiction of the* Court; *but you told me according to the* Rule, *I muſt Plead* Guilty, *or* Not guilty; *and what I had to offer ſhould be heard in its proper place. I now deſire to know, whether it be proper now to deliver my ſelf, before you proceed to the calling of Witneſſes: for I would go the beſt way, and would not willingly diſpleaſe you.*

Lord *Chief Baron.* What was promiſed you yeſterday, God forbid but you ſhould have it. But I think it will be beſt for you to hear the *Evidence*; and then what you have to ſay, you ſhall be fully heard.

Mr. Harriſon. *I am content.*

Whereupon *George Maſterſon, Stephen Kirk, Francis Hearn, William Clark, Robert Coitmore*, and *James Nutley*, were called, and ſworn.

*Councel.* Mr. *Maſterſon*, Whether did the Priſoner at the Bar ſit in that which they called the *High Court of Juſtice*, to ſentence the King, or no? Pray, tell my Lords, and the Jury therof, and what elſe you know of the matter.

Mr. *Maſterſon.* Upon the Oath I have taken (my Lords, and Gentlemen of the Jury) I ſaw the Priſoner, *Th. Harriſon*, ſit in that, which they called *The High Court of Juſtice*, upon the 27th. day of *January*, in the year 164$^{8}$. to ſentence the King.

*Councel.* Was it the day the Sentence was paſſed againſt the King?

Mr. *Maſterſon.* It was the day of the Sentence, the 27th. of *Jan.* 1648.

*Councel.* Can you ſay any thing elſe?

Mr. *Maſterſon.* I do (Sir) further remember, that, when the Clerk of the Court (as he was called) read the Sentence againſt the King, and ſaid, It was the ſentence of the whole Court; I ſaw the Priſoner at the Bar, together

gether with others, ſtand up, to my apprehenſion, as Aſſenting to it.

*Councel.* Was there not direction, that all ſhould ſtand up, as Aſſenting?

Mr. *Maſterſon.* I do not know that; but, when the Sentence was read, ſeveral of them did ſtand up, and he among the reſt, as Aſſenting to the Sentence; as the Spectatours underſtood.

*Councel.* Mr. *Clark*, What do you ſay to the ſame Queſtion?

Mr. *Clark.* My Lords, and Gentlemen of the Jury, I remember I ſaw the Priſoner at the Bar ſit ſeveral times in the *Court of Juſtice*, as they called it: particularly on the 23d. and 27th. of *January*, 1648. as I took notice of it in a Book.

*Councel.* Was that the day of the Sentence?

Mr. *Clark.* Yes, my Lord.

*Coun.* What ſay you to that of the riſing of thoſe perſons in the Court?

Mr. *Clark.* I remember they all roſe; but I did not take particular notice then of the Priſoner.

*Councel.* Mr. *Kirk*, You hear the Queſtion. Did you ſee the Priſoner at the Bar, in *Weſtminſter-Hall*, ſitting upon the Bench in that, which they called the *High Court of Juſtice*, when the King ſtood Priſoner at the Bar there?

Mr. *Kirk.* My Lord, I did ſee the Priſoner at the Bar ſit ſeveral days in that, which they called the *High Court of Juſtice*. I was there every day of their ſitting.

*Councel.* Do you remember he was there on the 27th. of *Jan.* 1648?

Mr. *Kirk.* I do, Sir.

*Councel.* Tell the Jury what was the Work there.

Mr. *Kirk.* It was Sentence. I did take the Names of all thoſe Gentlemen, that did appear in the Court on that day, the 27th. of *Jan.* 1648. and amongſt the reſt, I took a Note of that Gentleman's Name, as being preſent.

*Councel.* Whereas theſe Gentlemen (Mr. *Maſterſon*, and Mr. *Clark*) have declared; that, as Aſſenting to the Sentence, they all ſtood up: Did you ſee them ſtand; and whether by Direction, or no?

Mr. *Kirk.* As for the Direction, I know nothing of it; but the Members then preſent in the Court (after Sentence was read) as far as my Eyes could perceive, ſtood up unanimouſly; I ſuppoſe, as Aſſenting to the Sentence.

*Court.* Mr. *Nutley*, Did you know the Priſoner at the Bar? Have you ſeen him ſit in *Weſtminſter-Hall* at any time upon the Bench, when the King was brought as a Priſoner to the Bar?

Mr. *Nutley*. My *Lords*, and Gentlemen of the *Jury*, I ſaw the *Priſoner* at the *Bar* ſeveral days ſit there, amongſt the reſt of the *Judges*, as a *Judg*, I ſuppoſe. To the beſt of my remembrance, he ſate there four days together.

*Court*. Was he there upon the day of the Sentence?

Mr. *Nutley*. I did take Notes, *my Lord*, that day in the *Court*, and I finde he did ſit that day.

*Court*. Do you know any thing more of the *Priſoner* at the *Bar*?

Mr. *Nutley*. Thus much I know concerning the *Priſoner* at the *Bar*, *my Lord*. The firſt day that they ſate in publick, was (as I remember) the 20th. of *Jan.* 1648. Some few days afore that, there was a Committee, that ſate in the *Exchequer-chamber*, and of that Committee the Priſoner at the Bar was one of the Members. I do remember well, it was in the Evening, they were lighting of Candles; they were ſomewhat private. This Gentleman was there, I ſaw him: for through the kindneſs of Mr. *Phelps*, who was then Clerk to that Committee, I was admitted, pretending firſt to ſpeak with the ſaid Mr. *Phelps*, and that I had ſome Buſineſs with him, and ſo (as I ſaid before) I was admitted into the Committee-Chamber. Being there I did obſerve ſome paſſages fall from the Priſoner at the Bar; the words were to this purpoſe. He was making a Narrative of ſome Diſcourſes, that paſſed between his late Majeſty and himſelf, in coming between *Windſor* and *London*, or *Hurſt-caſtle*, I know not well whether. *My Lord*, that Paſſage, that I obſerved to fall from him in that Diſcourſe, was this. He ſaid, that the King, as He ſate in the Coach with him, was importunate to know what they intended to do with Him.

Mr. Harriſon. *In the* Coach *was it?*

Mr. *Nutley*. Yea, Sir, it was in the *Coach*. He told the reſt of the company (as I ſaid before) that the King asked, *What do they intend to do with me? Whether to murther me, or no?* And I ſaid to Him, *There was no ſuch intention, as to kill Him, we have no ſuch thoughts. But* (ſaith He) *the Lord hath reſerved you for a publick Example of Juſtice.* There is one word more, *My Lords*; and that is this, which I heard from this *Priſoner* at the *Bar*; That the reaſon, and end, of their Meeting together, at that *Committee*, was *concerning the Charge*. So much I obſerved. It was concerning the Contracting of the *Impeachment*. I obſerved, that ſome found fault with the length of that, as it was drawn. They were offering ſome reaſons to Contract it, and I heard this Priſoner at the *Bar* vent this expreſſion; *Gentlemen, It will be good for us to* blacken *him, what we can; Pray, let us* blacken *him*: or words to that Purpoſe. I am ſure *Blacken* was his word.

Mr. *Wyndham*.

Mr. *Wyndham.* Mr. *Nutley*, you ſpeak of an *Impeachment*. Againſt whom was that *Impeachment*?

Mr. *Nutley.* It was againſt His late Majeſty, the King.

*Councel.* And it was to draw up that *Impeachment* ſo, as to *Blacken* Him. Was it ſo?

Mr. *Nutley.* Yes, Sir.

*Mr.* Coytmore *ſworn.*

Mr. *Wyndham.* Did you ſee the *Priſoner* at the *Bar* ſitting in that, which they called the *High Court of Juſtice* on the Day, when the King was Sentenced, or at any other time? Pray tell my *Lords*, and the *Jury*.

Mr. *Coytmore.* My *Lords*, and Gentlemen of the *Jury*, I was in that, which they called the *High Court of Juſtice*, three, or four times. I ſaw this Gentleman, either once, or twice, ſitting there.

*Councel.* Do you know any thing more?

*Coytmore.* No, really. I came onely to hear, and ſee, what they were doing, and I did there ſee him, I think, ſeveral Days: I am ſure, once.

*Councel.* Did you ſee him on the ſeven and twentieth of *January* 1648. ſitting there, which was the Day of the *Sentence*?

*Coytmore.* I cannot call that to Memory.

*Councel.* Do you know of any *Expreſſions*, that the King ſhould be an *Example* of Judgment?

*Coytmore.* No, my *Lords.*

Mr. *Wyndham.* My *Lord*, in the next place, We ſhall ſhew that *Inſtrument*, that was made under the *Hand*, and *Seal*, of the *Priſoner* at the *Bar*, as well as others, for Execution of the King: that *Bloody Warrant*. But firſt we will ask *this* Witneſs another *Queſtion.*

*Councel.* Did you ſee the *Priſoner* at the *Bar* ſit on the *Bench*, as an ordinary *Spectatour*; or as one of the *Judges*?

*Coytmore.* He was in the *Court*, ſitting amongſt the reſt of the *Judges*, as one of them.

Mr. *Sollicitour.* My *Lords*, we will prove, that this *Priſoner* at the *Bar* was one of them, that took upon him the Conducting of the King, and that the King was in his Cuſtody; and to the *High Court of Juſtice* alſo.

*The Lord* Newburgh *ſworn.*

*Councel.* Pray, my *Lord*, give your ſelf the Trouble, to raiſe your Voice, and to tell my *Lords*, and the *Jury*, what you know of the *Priſoner* at the *Bar*; the part, that he acted in bringing up the King.

*Lord*

*Lord* Newburgh. *I was then living at his Majeſtie's Lodg at* Bagſhot, *when the Priſoner at the Bar brought the King from* Hurſt-Caſtle *to* London. *He was the Perſon, that Commanded the whole Party: and when the King by the way went to Diner, by his Order there were* Centries *ſet at every Door where He was. When the King had Dined, he carryed Him to* Windſore, *and appointed ſeveral of his Officers to ride cloſe to the King, as He was riding, leſt He ſhould make His eſcape from them.*

*Councel.* That was an Impriſonment it ſelf, and ſo a Treaſon.

Mr. *Wyndham.* My Lords, we ſhall now produce to you two *Inſtruments*, which were made; the one for *Convening*, and *Summoning* the Aſſembling of that, which they called the *High Court of Juſtice*, and ſhew this Priſoner's *Hand* and *Seal* to that. And then ſhew you likewiſe that, which was the Conſummating of all, that *Bloody Warrant* for *Execution* of His late Majeſty of bleſſed Memory, with the *Hand* and *Seal* of the Priſoner at the Bar unto it, amongſt others.

Mr. *Sollicitour.* My *Lords*, it will be fit before this to give you an Account, how we came by theſe *Inſtruments*.

Mr. *Jeſſop ſworn.*

*Councel.* Shew to Mr. *Jeſſop* the *Warrant* for ſummoning that Court.

Mr. *Sollicitour.* Mr. *Jeſſop*, pray tell my *Lords*, and the *Jury*, how you came by that *Inſtrument* you have in your Hand.

Mr. *Jeſſop.* May it pleaſe your *Lordſhips*, I, having the Honour to attend the *Houſe of Commons*, the *Houſe* was pleaſed to make an *Order*, that Mr. *Scobel* ſhould deliver into my hands all ſuch *Books*, and *Records*, *Papers*, and other things, as did belong to the *Houſe of Commons*: and, in purſuance of that *Order*, I did receive, amongſt other things, this *Inſtrument*, as a thing, that had been formerly in his hands as *Clerk* of the *Houſe of Commons*.

Mr. *Sollicitour.* We deſire it may be read, my *Lords*.

*Court.* Pray firſt, prove his Hand.

Mr. Harriſon. *I deſire to know what is offered to be Read.*

*Court.* It is a *Warrant* that you Sealed, amongſt other pretended Judges of your *High Court of Juſtice* (as you called it) for Trial of the King, for Summoning that Court.

*Councel.* Mr. *Kirk*, Have you ſeen the Hand-writing of the *Priſoner* at any time?

Mr. *Kirk.* I have very often ſeen it, and am well acquainted with it; and, ſo far as it's poſſible a man can Teſtifie touching the Hand of another

ther Perſon, I do verily believe this to be his *Hand*.

*Councel.* How came you to be acquainted with his *hand*?

Mr. *Kirk.* As he was a *Member* of the *Houſe of Commons*, and my Imployment having relation thereto, I have ſeen him ſet his *hand* ſeveral times.

*Mr.* Farrington *Sworn.*

*Councel.* Do you believe that this is the *Hand-writing* of the *Priſoner* at the Bar: (*The* Inſtrument *being ſhewed him.*)

Mr. *Farrington.* I did not ſee him write it, my *Lords*; but I believe it to be his: for I have often ſeen his *Hand-writing*. It is his *hand*, ſo far as poſſibly a man can know any Perſon's *hand*, that did not ſee him write.

Mr. Harriſon. *I deſire to ſee the Inſtrument.* Which being ſhew'd to him; he ſaid, *I believe it is my own Hand.*

*Councel.* That's the Warrant for ſummoning that *Court*, that he owns his *hand* to.

*Court.* Shew him the other *Inſtrument.*

*That being for* Execution *of the* Sentence; *it being ſhew'd him,*

Mr. Harriſon. *I do think this is my* hand *too.*

*Councel.* If you think it, the *Jury* will not doubt it. That's the *Bloody Warrant* for Execution. And we deſire they may be both read.

Mr. Harriſon. *My* Lords, *do theſe Learned Gentlemen offer theſe, as being any* Records.

*Conncel.* No: but as your own *hand-writing.*

Mr. Harriſon. *If you do not read it as a* Record, *I hope your* Lordſhips *will not admit of any thing of that kinde againſt me.*

*Councel.* He knows, that a *Letter* under his *hand*, and *Seal*, may be read in a *Court.* We do not offer it as a *Record*; but prove it by Witneſſes, that it is your *hand writing.*

*Court.* You have Confeſſed theſe to be your *hands.* Whether they are *Records*, or no; whether *Papers*, or *Letters*: they may be read againſt you You ſigned the *Warrant* for Convening together thoſe, which you called *The High Court of Juſtice*, and you ſigned the other *Warrant* for putting the King to Death. You do Confeſs theſe two things. We do not ſee what further Uſe may be made of them.

*Court.* You might obſerve, how the *Indictment* was for *Imagining*, *Compaſſing*, and *Contriving* the King's Death. To prove that, there muſt be ſome *Overt-Act*, and a *Letter* under the Partie's Hand is a ſuf-

ficient *Overt-Act* to prove ſuch *Imagination*: to that end theſe are uſed.

Mr. Harriſon. *I do not come to be denying any thing, that in my own Judgment, and Conſcience, I have done, or Committed; but rather to be bringing it forth to the Light.*

*Court.* Sir, you muſt underſtand this by the way, this you muſt take along with you. That theſe are read, not as any thing of Authority in themſelves, or as uſed to any other purpoſe, but as an Evidence of the *Fact* againſt you. Take that along with you.

(*The two Bloody* Warrants *for* Trial, *and for* Execution *of His Majeſty were here read; the later of which is as followeth.*)

*At the* High Court of Juſtice *for the Trying, and Judging of* Charls Stuart, *King of* England, *Jan.* 29. 1648.

WHereas *Charls Stuart*, King of *England*, is, and ſtandeth, Convicted, Attainted, and Condemned of High Treaſon, and other High Crimes; and *Sentence* upon *Saturday* laſt was pronounced againſt him by this Court; to be put to Death, by the ſevering his Head from his Body; of which *Sentence* Execution yet remaineth to be done: Theſe are therefore to will, and require you, to ſee the ſaid *Sentence* executed in the open Street before *White-hall*, upon the morrow, being the 30th. day of this inſtant Moneth of *January*, between the hours of ten in the Morning, and five in the Afternoon of the ſame day, with full effect. And for ſo doing this ſhall be your ſufficient *Warrant*. And theſe are to require all Officers, and Souldiers, and other the good People of this Nation of *England* to be aſſiſtant unto you in this ſervice. Given under our Hands, and Seals.

To *Colonel* Francis Hacker, *Colonel Hunks*, and Lieutenant-Colonel *Phayre*, and every of them.

*Sealed*, and *ſubſcribed*,

BY
*John Bradſhaw*, Lord Preſident.
*Jo. Hewſon.*
*Per. Pelham.*

*Thoma*

Thomas Grey.
Oliver Cromwel.
Edward Whalley.
John Okey.
Jo. Danvers.
Mich. Liveſey.
Jo. Bourchier.
Hen. Ireton.
Thomas Maleverer.
Jo. Blakeſtone.
Jo. Hutchinſon.
Will. Goff.
Thomas Pride.
Hen. Smith.
Peter Temple.
Tho. Harriſon.
Iſaac Ewer.
Val. Walton.
Simon Meyn.
Tho. Horton.
Jo. Jones.
Jo. Moor.
Hardreſs Waller.
Gilbert Millington.
Ch. Fleetwood.
Jo. Alured.
Rob. Lilburn.
Will. Say.

Rich. Dean.
Rob. Tichbourn.
Hum. Edwards.
Dan. Blagrave.
Owen Roe.
Will. Purefoy.
Adrian Scroop.
James Temple.
Aug. Garland.
Edmond Ludlow.
Hen. Martin.
Vincent Potter.
Will. Conſtable.
Rich. Ingoldsby.
Will. Cawley.
Joh. Barkſtead.
Anth. Stapeley.
Greg. Norton.
Tho. Challoner.
Tho. Wogan.
Jo. Ven.
Greg. Clement.
Jo. Downs.
Tho. Wayt.
Tho. Scot.
Jo. Carew.
Miles Corbet.

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Mr. *Wyndham.* Gentlemen *of the* Jury, *We have done our* Evidence; *and you muſt know*, Gentlemen, *that the principal Point of the* Indictment *is for* Compaſſing, Imagining, *and* Contriving *the Death of His late Majeſty of Glorious Memory. There lies the Treaſon. So ſaies the* Statute *of the* 25th. *Edw.* 3d. *It hath nothing of* Killing *the King there, but of* Imagining, *and* Compaſſing *the Death of the King. The going about it, that's the Treaſon: as hath been learnedly opened to you. The*

*reſt are but* Overt-Acts. *If there be ſuch an* Imagination, *or* Compaſſing *the Death of the King once declared, though no fruit at all follow, it is* Treaſon. *Here certainly you have a very full* Evidence *given. We ſhew you a* Conſultation; *this is one* Overt-Act, *which would do the work, if there were nothing elſe. I muſt tell you (and that with Submiſſion to my Lords, the* Juſtices) *if they had* adviſed, *and gone no further: that had been Treaſon in the* Letter *of the Law. They Convened, and met together, and ſuppoſe then, they had abſolved, and acquitted him; do you think they had abſolved themſelves from Treaſon? With reverence be it ſpoken: if they had* acquitted *him, they had been guilty of Treaſon.* Aſſuming a Power *to put the King to Death, is an* Overt Act, *declaring ſuch an Imagination. You ſee this Priſoner was no ordinary Actour in it: his Hand is in at all Games, Taking of Him, Impriſoning of Him, bringing Him to* London, *and ſetting Guards on Him. You ſee alſo his Malice,* Let us *Blacken* Him: *for they knew His* Innocency *would Shine forth; unleſs it was* blackened *by their Imputations. He Sate many times, as you hear, and* Sentenced *Him, and Aſſented to that* Sentence *by ſtanding up, and likewiſe by Concluding the* Cataſtrophe *of that ſad beginning of our Sufferings, his making a* Warrant *for His* Execution, *and accordingly you know what did follow: I think a clearer* Evidence *of a* Fact *can never be given, then is for theſe things.*

(Here the Spectatours *Hummed*.)

*Lord Chief Baron.* Gentlemen, This *Humming* is not at all becoming the Gravity of this *Court.* Let there be free-ſpeaking by the *Priſoner*, and *Councel.* It is more fitting for a *Stage-Play*, then for a *Court of Juſtice.*

Mr. Harriſon. *It is now time*, my Lords, *to offer what I have to ſay. Have theſe Learned Gentlemen offered what they will ſay?*

*Councel.* We have no more, till he hath given us occaſion, not for *Evidence* of the *Fact.*

Mr. Harriſon. *My* Lords, *the matter, that hath been offered to you, as it was touched, was not a thing done in a Corner. I believe the ſound of it hath been in moſt Nations. I believe the Hearts of ſome hath felt the Terrours of that Preſence of God, that was with his Servants in thoſe days: (However it ſeemeth good to him, to ſuffer this* Turn *to come on us) and are Witneſſes, that the things were not done in a Corner. I have deſired,*

*as in the ſight of him, that ſearcheth all hearts, whileſt this hath been done, to wait, and receive from him Convictions upon my own Conſcience, though I have ſought it with Tears many a time, and Prayers, over and over, to that God, to whom you, and all Nations, are leſs, then a Drop of Water of the Bucket: and, to this moment, I have received rather Aſſurance of it, and that the things, that have been done, as aſtoniſhing on one hand. I do believe, e're it be long, it will be made known from Heaven; There was more from God, then men are aware of. I do profeſs, that I would not offer, of my ſelf, the leaſt Injury to the pooreſt Man, or Woman, that goes upon the Earth. That I have humbly to offer is this to your Lordſhips; You know what a Conteſt hath been in theſe Nations for many years. Divers of thoſe, that ſit upon the* Bench, *were formerly as Active* ——

*Court.* Pray, Mr. *Harriſon*, do not thus Reflect on the *Court*. This is not to the Buſineſs.

Mr. Harriſon. *I followed not my own Judgement. I did what I did, as out of Conſcience to the Lord. For, when I found thoſe, that were as the Apple of mine Eye, to turn aſide, I did loath them, and ſuffered Impriſonment many years, rather, then to turn, as many did, that did put their Hands to this Plough: I choſe rather to be ſeparated from Wife, and Family; then to have Compliance with them; though it was ſaid,* Sit at my Right hand; *and ſuch kind of Expreſſions. Thus I have given a little poor Teſtimony, that I have not been doing things in a* Corner, *or from my ſelf. May be, I might be a little miſtaken: but I did it all according to the beſt of my underſtanding; deſiring to make the Revealed Will of God in his* Holy Scriptures, *as a guid to me. I humbly conceive that what was done, was done in the name of the* Parliament *of* England, *that what was done, was done by their Power, and Authority, and I do humbly conceive, it is my Duty to offer unto you in the beginning, that this* Court, *or any* Court *below the* High Court of Parliament, *hath no Juriſdiction of their Actions. Here are many learned in the Law, and, to ſhorten the Work, I deſire I may have the help of* Councel *learned in the Laws, that may in this matter give me a little aſſiſtance to offer thoſe Grounds, that the Law of the Land doth offer. I ſay what was done was done by the Authority of the* Parliament, *which was then the* Supreme *Authority; and that thoſe, that have Acted under them are not to be queſtioned by any Power*

*leſs then them. And for that I conceive there is much out of the Laws to be ſhewed to you, and many* Preſidents *alſo in the* Caſe. *Much is to be offered to you, in that, according to the Laws of the Nations, that was a due* Parliament. *Thoſe* Commiſſions *were iſſued forth, and what was done, was done by their Power. And whereas it hath been ſaid, We did Aſſume, and Uſurp an Authority: I ſay this was done rather in the Fear of the Lord*———

*Court.* Away with him. Know where you are, Sir. You are in the Aſſembly of *Chriſtians*. Will you make God the Authour of your Treaſons, and Murthers? Take heed, where you are. *Chriſtians* muſt not hear this. We will allow you, to ſay for your own *Defence* what you can. And we have, with a great deal of Patience, ſuffered you to ſally out: wherein you have not gone about ſo much for Extenuation of your Crimes, as, to juſtifie them, to fall upon others, and to Blaſpheme God, and commit a new Treaſon for your having of *Councel*. This is the reaſon for allowing of *Councel*; when a man would Plead any thing, becauſe he would Plead it in *Formality*, *Councel* is allowed. But you muſt firſt ſay in what the Matter ſhall be, and then you ſhall have the *Court's* Anſwer.

Lord *Finch.* Though my *Lords* here have been pleaſed to give you a great Latitude: this muſt not be ſuffered; that you ſhould run into theſe damnable Excurſions; to make God the Authour of this damnable Treaſon Committed.

Mr. Harriſon. *I have two things to offer to you, to ſay for my Defence in Matter of* Law. *One is; that this, that hath been done, was done by a* Parliament *of* England, *by the* Commons *of* England *aſſembled in* Parliament: *and, that being ſo, Whatever was done by their Commands, or their Authority, is not queſtionable by your* Lordſhips; *as being (as I humbly Conceive) a Power Inferiour to that of an* High Court *of* Parliament. *That's one. A ſecond is this; That what therefore any did in obedience to that Power, and Authority, they are not to be queſtioned for it, otherwiſe we are in a moſt miſerable Condition, bound to obey them, that are in Authority, and yet to be puniſhed, if obeyed, We are not to Judg, what is lawfull, or what is unlawfull.* My Lords, *Upon theſe two Points I do deſire, that thoſe, that are Learned in the Laws, may ſpeak to, on my behalf.*

*half. It concerns all my Countreymen. There are* Caſes *alike to this, you know, in King* Richard the Second's *Time, wherein ſome Queſtion had been of what had been done by a* Parliament; *and what followed upon it, I need not urge it. I hope it will ſeem good to you; that* Councel *may be aſſigned: for it concerns all my Countreymen.*

*Court.* You are miſtaken, if you appeal to your Countreymen. They will cry you Out, and ſhame you.

Mr. Harriſon. *May be ſo,* my Lords, *ſome will: but I am ſure others will not.*

*Councel.* Theſe two Points, *my Lords*, are but one, and they are a New Treaſon at the *Bar*: for which he deſerves to dye; if there were no other *Indictment*. It is the Malice of his heart to the Dignity, and Crown of *England*. I ſay this is not Matter, for which *Councel* can be aſſigned. *Councel* cannot put into Form that, which is not Matter Pleadable it ſelf. It is ſo far from being true, that this was the Act of the *Supreme Parliament* of the People of *England*, that there was nothing received with more Heart-bleeding, then this Bloody Buſineſs. But, that the World may not be abuſed by the Inſinuations of a man, who acts, as if he had a Spirit, and in truth is poſſeſſed, I will ſay; That the *Lords*, and *Commons*, are not a *Parliament*: that the *King*, and *Lords* cannot do any thing without the *Commons*; Nor the *King*, and *Commons*, without the *Lords*; Nor the *Lords*, and *Commons*, without the *King*, eſpecially *againſt* the King. If they do, they muſt anſwer it with their Heads: for the King is not accountable to any Coercive Power. And for the Priſoner to Juſtifie his act, as if it were the Act of the *Commons* of *England*, he is very much to be reproved. Shall he pretend, that *one Houſe*, nay, the eight part of an *Houſe* (for ſo it was) can Condemn a *King*: when both *Houſes* cannot condemn one man, in ſpight of the King. I deſire, *my Lords*, it may paſs with a due Reproach, and a Sentence upon it.

*Court.* It is true, your *Queſtions* are but one Point. You pretend the *Parliament*'s Authority; and, when you come to ſpeak of it, you ſay the *Commons* of *England*. They were but one *Houſe* of *Parliament*. The *Parliament*? what is that? It is the *King*, the *Lords*, and the *Commons*. I would fain know of you, where ever you read, by the light you

ſay you have in your Conſcience, that the *Commons* of *England* were a *Parliament* of *England*, that the *Commons* in *Parliament* uſed a Legiſlative power alone. Do you call that a *Parliament*, that ſate, when the Houſe was *Purged*, as they call it, and was ſo much under the Aw of the *Army*, who were then, but fourty, or fourty five at moſt. Then you ſay, It was done by Authority of them. You muſt know, where there is ſuch an Authority (which indeed is no Authority) he that confirms ſuch an Authority, he Commits a double Offence; therefore conſider what your *Plea* is. If your *Plea* were doubtfull, We ſhould, and ought, and would, our ſelves, be of *Councel* for you. That, which you ſpeak concerning *Conviction of your own Conſcience*, remember, that it is ſaid in *Scripture*, that *they ſhall think they did God good ſervice, when they ſlay you*, as it is in St. *John*. He hath a great deal of Charity, that thinks that what you did was out of a Conſcientious *Principle*. It was againſt the Light of noon-day, & Common practice. You make your ſelf a *Sollicitour* in the Buſines. *Let us* blacken *him, as much as we can*. I have not touched at all upon the *Evidence*. I will not urge it now. I ſay you Juſtifie it upon *Convictions of Conſcience*, and pretend it upon Authority. A thing never known, or ſeen, under the Sun; that the *Commons*, nay a few *Commons* alone, ſhould take upon them, & call themſelves the *Parliament* of *England*. We have been cheated enough by Names, and Words: there is no colour for what you ſay. I do think, and hope, my Brethren will ſpeak to this *Caſe*, that none of us do own that Convention, whatſoever it be, to be the *Parliament* of *England*. There was another aggravation at this Time, that this Pretended Authority uſurped that Power; the *Lords* were then ſitting. You had not taken this uſurped Power to diſſolve theſe *Lords*. No; you did this Act in deſpight of the *Lords*, you had ſent up an *Ordinance* to the *Lords*, and they rejected it, and thereupon theſe *Members* took it upon themſelves. Amongſt thoſe there were ſome *Negatives*, and thoſe *Members* were under the Aw, and Power, of your *Forces* at that time. What you Plead, the *Court* are of Opinion, tends to the ſubverſion of the Laws; for you to uſurp Power over the People without their Conſents, to call this the *People*; We never knew the like before. But the *Parliament* of *England* was the *King*, *Lords*, and *Commons*. For you to ſpeak of this Power, and Juſtifie this Power, is an Aggravation adding one Sin, and Treaſon, to another. We ſhall tell you, that neither *both Houſes* of *Parliament*, if

they

they had been there; not any *ſingle Perſon*, *Community*, not the *People*, either *Collectively* or *Repreſentatively*, had any colour to have any Coercive Power over their King. And this *Plea*, which you have ſpoken of, it ought to be over-ruled, and not to ſtand good,

Mr. Anneſley. *I do the more willingly ſpeak to this Buſineſs; becauſe I was one of thoſe; that ſhould have made up that* Parliament, *that this Priſoner pretends to. I was one of that* Corrupt Majority (*as they called it*) *that were put out of the* Houſe. *He cannot forget, that at that time there were* Guards *upon both* Houſes *of* Parliament *to attend them, that were of their own appointment: and that thoſe* Guards *were forcibly removed by the Priſoner at the Bar, and his Fellows: and other* Guards *put there, who, inſtead of being a Defence unto them, when theſe* Commons *ſtood at the Door, were by them threatned. Yet the* Lords, *and* Commons *of* England *in* Parliament *Aſſembled, a full Houſe of* Commons, *did reſolve, notwithſtanding what was aforeſaid; that the Treaty in the Iſle of* Wight *was a* Ground for Peace. *Afterwards the Major part of the* Houſe *of* Commons, *having reſolved on this, ſent it up to the* Lords: *that very day when they were Adjourned, there were* Forces *drawn down to the* Houſe *of* Commons Door, *& none ſuffered to come into the* Houſe, *but thoſe, that they pleaſed. All thoſe, that had a mind for Peace, that minded their Duty, and Truſt, and Allegiance to their King, were ſeized on by this Gentleman, and his Fellows. When this was done, what did he, and thoſe Fellows do? They ſate, and put a check upon all, that ſhould come in. None muſt come in, but thoſe, that would renounce their Allegiance, and Duty to their King, and the People, for whom they ſerved, and then declared againſt that Vote, which had been paſſed upon* Debate *of twelve, or fourteen hours, and then to call this an* Houſe *of* Commons, *nay, the* Supreme Authority of the Nation, *he knows is againſt the Laws of the Land. For the* Houſe *of* Commons *alone cannot ſo much, as give an* Oath. *It hath not power of Judicature of Life, and Death: this he knows well to be according to the Laws of* England *He knows, that no Authority, leſs then an* Act of Parliament, *can make a Law, and he knows an* Act of Parliament *muſt be paſſed by the* King, Lords, *and* Commons. *I wonder much to hear a Juſtification in this kind by one, that knows the Laws of* England *ſo well. There will none of the* Court *allow, that that was a* Parliament. *The Majority of that* Houſe *did all diſavow it. Theſe things have been already diſcourſed of: I ſhall onely ſay,*

*that he, knowing the Laws ſo well, I hope, he ſhall ſuffer for transgreſſion thereof.*

*Mr. Hollis.* You do very well know, that this, that you did, this horrid deteſtable Act, which you Committed, could never be perfected by you; till you had broken the *Parliament.* That *Houſe* of *Commons*, which you ſay gave you Authority, you know what your ſelf made of it, when you pulled out the *Speaker.* Therefore do not make the *Parliament* to be the Authour of your black Crimes. It was innocent of it. You know your ſelf, what eſteem you had of it, when you broke, and tore it in ſunder; when you ſcattered, and made them hide themſelves, to preſerve them from your Fury, and Violence. Do not make the *Parliament* to be the Authour of your Crimes. The *Parliament* are the three *Eſtates.* It muſt not be admitted, that one *Houſe*, part of the *Parliament*, ſhould be called the *Snpreme Authority.* You know what that *Rump*, that you left, did; what Laws they made. Did you go home to adviſe with your Countrey, that you Repreſented? How durſt you abuſe your Truſt committed to you by your Countrey, that choſe you for that Place? You know, that no *Act* of *Parliament* is binding; but what is Acted by *King*, *Lords*, and *Commons.* And now, as you would make *God* the Authour of your *Offence*, ſo likewiſe you would make the *People* guilty of your *Opinion.* But your *Plea* is over-ruled.

*To which the* Court *aſſented.*

Mr. Harriſon. *I was miſtaken a little. Whereas it was ſaid, the Points were one: I do humbly conceive, they were not ſo. I ſay, what was done was done in Obedience to the* Authority. *If it were but an* Order *of the* Houſe *of* Commons, *thus under a Force, yet* this Court *is not Judg of that Force. I ſay, if it was done but by one* Eſtate *of* Parliament, *it is not to be queſtioned.*

*Court.* It was not done by one *Eſtate.* They were but a Part; nay but an eighth Part.

*Denz. Hollis.* It was not an *Houſe* of *Commons.* They kept up a Company by the power of the Sword. Do not abuſe the People in ſaying, It was done by the *Supreme Power.*

*Council.*

*Councel.* My *Lord*; if it were an *Houſe* of *Commons*, neither *Houſe* of *Commons*, nor *Houſe* of *Lords*, nor *Houſe* of *Lords* and *Commons* together, no *Authority* upon Earth, can give Authority for Murthering the *King*. This, that he alledgeth, is Treaſon: *my Lord*, this, that is ſaid, is a clear *Evidence* of that, which is charged: there is onely this more in it, He hath done it, and, if he were to do it again, he would do it.

*Lord Chief Baron.* It is clear as the Noon-day, that this was not the *Houſe* of *Commons*. Suppoſe it had been an *Houſe* of *Commons*, and full, and ſuppoſe, (which far be it from me to ſuppoſe) they ſhould have agreed upon ſuch a Murtherous *Act*: for the *Houſe* of *Commons* to do ſuch an *Act*, it was void in it ſelf; nay, any Authority, without the *Houſe* of *Lords*, and *King*, is void. You plead to the *Jurisdiction* of the Court, whether we ſhould Judg it, or no. Yes, I tell you, and proper too. We ſhall not ſpeak what Power we have. The *Judges* have Power, after *Laws* are made, to go upon the *Interpretation* of them. We are not to judg of thoſe things, that the *Parliament* do. But when the *Parliament* is *purged* (as you call it) for the *Commons* alone to Act, for you to ſay, that this is the *Authority of Parliament*, it is that, which every man will ſay, *Intrenches highly upon his Liberty, and Privilege*. And what you have ſaid to your Juſtification, what doth it tend to, but as much as this, *I did it, juſtifie it, and would do it again*: which is a new Treaſon. The greateſt Right, that ever the *Houſe* of *Commons* did claim, is but over the *Commons*. Do they claim a particular Right over the *Lords*? nay, over the *King*? Make it out if you can: but it cannot poſſibly be made out. What you have ſaid doth aggravate your Crimes. It is ſuch an Improvement of your Treaſon, that all *Evidences* come ſhort of it. *King*, *Lords*, and *Commons* is the Ground of the *Engliſh*-Law. Without that no *Act of Parliament* binds.

Juſtice *Mallet*. I have been a *Parliament-Man* as long as any man here preſent, and I did never know, or hear, that the *Houſe* of *Commons* had *Jurisdiction* over any, ſaving their own *Members*: which is as much as I will ſay concerning the *Parliament*. I have heard a *Story* of a *Mute*, that was born *Mute*, whoſe Father was ſlain by a Stranger, a man unknown. After twenty years, or thereabouts, this *Mute*-man fortuned to ſee the Murtherer of his Father: and theſe were his

Words,

Words; *Oh! here is he, that ſlew my Father.* Sir, The *King* is the *Father of the Countrey*; *Pater Patriæ:* ſo ſaith Sir *Edward Coke.* He is *Caput Reipublicæ*, the *Head of the whole Common-Wealth.* Sir, What have you done? Here you have cut off the *Head* of the whole *Common-Wealth*, and taken away Him, that was our *Father*, the Governour of the whole Countrey. This you ſhall finde *Printed*, and *Publiſhed*, in a Book of the greateſt *Lawyer*, Sir *Edward Coke.* I ſhall not need, *my Lord*, to ſay more of this Buſineſs. I do hold the Priſoner's *Plea* vain, and unreaſonable, and to be rejected.

*Juſtice Hide.* I ſhall not trouble you with many Words. I am ſorry, that any man ſhould have the Face, and Boldneſs, to deliver ſuch Words, as you have. You, and all, muſt know, that the *King* is above the two *Houſes.* They muſt propoſe their Laws to him. The *Laws* are made by *Him*, and not by *them*: by their conſenting; but they are His Laws. That, which you ſpeak as to the *Jurisdiction*: you are here *Indicted* for High Treaſon; for you come to talk of *Juſtification* of this by Pretence of Authority, your *Plea* is naught, illegal, and wicked, and ought not to be allowed. As to having of *Councel* the *Court* underſtand what you are upon: *Councel* is not to be allowed in that *Caſe*, and therefore your *Plea* muſt be over-ruled.

*Twiſden.* I ſhall agree with that, which many have already ſaid; onely this, you have eaſed the *Jury*, you have confeſſed the *Fact.* I am of the ſame Opinion, that you can have no *Councel*: therefore I over-rule your *Plea*, if it had been put in in never ſo good *Form*, and *Manner.*

*Earl* of *Mancheſter.* I beſeech you, *my Lords*, let us go ſome other way to work ——

Sir *William Wild.* That which is before us is, whether it be a matter of *Law*, or *Fact.* For the matter of *Law*; your Lordſhips have declared what it is, his Juſtification is as high a Treaſon, as the former. For matter of *Fact*; he hath confeſſed it. I beſeech you, *My Lord*, direct the *Jury* for their *Verdict.* This Gentleman hath forgot their Barbarouſneſs: they would not hear their King.

*Court.*

*Court.* No *Councel* can be allowed to Juſtifie a Treaſon: that this is a Treaſon, you are *Indicted* by an *Act* of the 25th. of *Edw.* 3d. That, which you ſpeak of of the *Houſe* of *Commons*, is but part of the *Houſe* of *Commons*, they never did, nor had any power, to make a *Law*, but by *King*, *Lords*, and *Commons*: and therefore your *Plea* is naught, and all the *Court* here is of the ſame opinion; if they were not, they would ſay ſo: therefore what you have ſaid is over-ruled by the *Court*. Have you any thing elſe to offer?

Mr. Harriſon. *Notwithſtanding the Judgment of ſo many Learned ones, that the Kings of* England *are no Ways accountable to the* Parliament. *The* Lords, *and* Commons, *in the beginning of this War having declared the King's beginning War upon them*; *the* God of Gods——

*Court.* Do you render your ſelf ſo deſperate, that you care not what Language you let fall? It muſt not be ſuffered.

Mr. Harriſon. *I would not willingly ſpeak to offend any man: but I know God is* no Reſpecter of Perſons. *His ſetting up his* Standard *againſt the People* ——

*Court.* Truly, *Mr. Harriſon*, this muſt not be ſuffered: this doth not at all belong to you.

Mr. Harriſon. *Under Favour, this doth belong to me. I would have abhorred to have brought him to* Account: *had not the blood of* Engliſh *men, that had been ſhed* ——

*Court.* Methinks, he ſhould be ſent to *Bedlam*, till he comes to the *Gallows* to render an *Account* of this. This muſt not be ſuffered. It is in a manner a new *Impeachment* of *this* King; to juſtifie their Treaſons againſt His late Majeſty.

Mr. *Sollicitour.* My *Lords*, I pray, that the *Jury* may go together upon the *Evidence*.

Sir *Edw. Turner.* My *Lords*, This man hath the *Plague* all over him: it

it is Pitty any ſhould ſtand near him; for he will infect them. Let us ſay to him, as they uſe to write over an Houſe Infected, *The Lord have Mercy upon him*; and ſo let the *Officer* take him away.

*Lord Chief Baron.* Mr. *Harriſon*, We are ready to hear you again: but to hear ſuch Stuff, it cannot be ſuffered. You have ſpoken that, which is as high a Degree of Blaſphemy, next to that againſt God, as I have heard. You have made very ill uſe of theſe Favours, that have been allowed you to ſpeak: your own Conſcience cannot but tell you the Contradiction of your Actions againſt this, that you have heard as the opinion of the *Court*. To extenuate your Crimes you may go on; but you muſt not go on as before.

Mr. Harriſon. *I muſt not ſpeak ſo, as to be pleaſing to men: but, if I muſt not have liberty, as an* Engliſh-*man* ———

*Court.* Pray, do not reflect thus. You have had Liberty, and more, then any *Priſoner* in your Condition can expect: and I wiſh you had made a good uſe of it. Keep to the Buſineſs; ſay what you will.

Mr. Harriſon. *My* Lords; *thus. There was a Diſcourſe by one of the Witneſſes, that I was at the* Committee; *preparing the* Charge, *and that I ſhould ſay*, Let us *blacken* Him *The thing is utterly untrue. I abhorred the doing of any thing touching the* Blackning *of the King. There was a little Diſcourſe between the King and my ſelf. The King had told me, that He had heard, that I ſhould come privately to the ſle of* Wight, *to offer ſome Injury to Him. But I told Him, I abhorred the Thoughts of it. And whereas it is ſaid; that my Carriage was hard to Him, when I brought Him to* London: *it was not I, that brought Him to* London. *I was commanded by the* General, *to fetch Him from* Hurſt-*Caſtle. I do not remember any hard Carriage towards Him.*

*Court.* Mr. *Harriſon.* You have ſaid, that you deny that of *Blackning*; which the *Witneſs* hath ſworn: and ſomewhat elſe touching the King, in His way to *London*; that the *Witneſs* hath ſworn to alſo. The *Jury* muſt conſider of it; both of their *Oaths*, and your *Contradictions.*

*ons.* If you have nothing more to ſay; which tends to your Juſtification: We muſt direct the *Jury.* The end of your Speech is nothing, but to infect the People.

Mr. Harriſon. *You are uncharitable in that.*

Juſtice *Foſter.* My *Lords*, this ought not to come from the *Bar* to the *Bench*; if you *ſally out* thus about your Conſcience. If your Conſcience ſhould be a darkned Conſcience: that muſt not be the Rule of other mens Actions. What you ſpeak of that Nature is nothing to the Buſineſs. If you have any thing to ſay, by way of Excuſe for your ſelf for matter of *Fact*, you may ſpeak: but, if you will go on as before, it muſt not be ſuffered.

Mr. Harriſon, *The things, that have been done, have been done upon the Stage, in the ſight of the Sun* ———

*Court.* All this is a Continuance of the Juſtification, and Confeſſion of the *Fact*: We need no other *Evidence.*

*Councel.* He hath confeſſed his *Fact*, my *Lords.* The matter it ſelf is Treaſon upon Treaſon: therefore we pray Direction to the *Jury.*

Sir *Orl. Bridgman.* Mr. *Harriſon*, I muſt give Direction to the *Jury*: if you will not go further touching the *Fact.*

Mr. Harriſon, *My* Lords, *I ſay what I did was by the* Supreme Authority. *I have ſaid it before, and appeal to your own Conſciences; that this* Court *cannot call me to queſtion.*

Sir *Orl. Bridgman.* Mr. *Harriſon*, you have appealed to our Conſciences. We ſhall do that, which, by the Bleſſing of God, ſhall be juſt; for which we ſhall anſwer before the *Tribunal* of God. Pray, take heed of an *Obdurate*, *Hard* Heart, and a *Seared* Conſcience.

Mr. Harriſon. *My* Lords, *I have been kept ſix Moneths a Cloſe Priſoner, and could not prepare my ſelf for this Trial by* Councel. *I have got here*

*ſome*

*ſome* Acts *of* Parliament *of that* Houſe *of* Commons, *which your Lordſhips will not own*; *and the* Proceedings *of that* Houſe, *whoſe Authority I did own* ——

Sir *Orl. Bridgman.* This you have ſaid already. If you ſhew never ſo many of that Nature; they will not help you: you have heard the Opinion of the *Court*, touching *that* Authority. They all unanimouſly concur in it.

*Gentlemen* of the *Jury*, you ſee, that this *Priſoner* at the *Bar* is Indicted for *Compaſſing*, *Imagining*, and *Contriving* the Death of our late Sovereign Lord, King *Charls* the Firſt, of Bleſſed Memory. In this *Indictment* there are ſeveral things given, but as Evidences of it: they are but the *Overt-Acts* of it. The one is, firſt, that they did meet, and conſult together about the putting the King to Death: and that alone, if nothing elſe had been proved in the *Caſe*, that was enough for you to finde the *Indictment*. For the *Imagination* alone is Treaſon by the Law. But becauſe the *Compaſſing*, and *Imagining* the Death of the King is ſecret in the Heart, and no man knows it, but God Almighty: I ſay, that the Imagination is Treaſon; yet it is not ſuch, as the Law can lay hold of, unleſs it appear by ſome *Overt-Act*. Then, the firſt *Overt-Act* is their *Meeting*, *Conſulting*, and *Propoſing* to put the King to Death. The ſecond is more open; namely their *Sitting* together, and *Aſſuming an Authority* to put the King to Death. The third is *Sentencing* the King. And I muſt tell you, that any one of theſe Acts prove the *Indictment*. If you finde him guilty but of any one of them; either *Conſulting*, *Propoſing*, *Sitting*, or *Sentencing* (though there is full Proof for all) yet notwithſtanding you ought to finde the *Indictment*. You have heard what the *Witneſſes* have ſaid, and the *Priſoner*'s own Confeſſion. Witneſſes have ſworn their ſitting together; and that he was one. One ſwears he ſate *four* times; another *twice*; ſome *ſeveral times*. There are ſeveral Witneſſes for this: as Mr. *Maſterſon*, Mr. *Clark*, Mr. *Kirk*, and Mr. *Nutley*. And then you have another thing too, which truly the *Priſoner* did not ſpeak of. Witneſs was given againſt him, that he was the Perſon, that Conducted the King: this was before that, which he would have to be done by a *Legiſlative Power*: and that is another *Overt-Act*. If a man will go about to *Impriſon* the King; the *Law* knows what is the ſad Effect of ſuch Impriſonment. That hath often been adjudged to be an Evidence of *Imagining*, and *Compaſſing* the Death of the King. That Man, the

the *Priſoner* at the *Bar*, it hath been proved to you, did *Impriſon* the King: and it appears by his own Hand to the *Warrant* for ſummoning of that Traiterous Aſſembly, *The High Court of Juſtice*, as they called it. And alſo it appears by his Hand to the *Warrant* for Execution; that *Bloody Warrant*. He hath been ſo far from denying, that he hath Juſtified theſe Actions. The *Evidence* is ſo clear, and pregnant, as nothing more. I think you need not go out.

*The* Jury *went together at the* Bar, *and preſently unanimouſly agreed on their* Verdict: *whereupon they were demanded by the* Clerk,

*Clerk.* Are you agreed upon your *Verdict*?

Jury. *Yes.*

*Clerk.* Who ſhall ſay for you?

Jury. *Our Fore-man.* (Which was Sir *Thomas Allen*)

Clerk. *Thomas Harriſon*, Hold up thy Hand. Gentlemen of the *Jury*, Look upon the *Priſoner*. How ſay ye? Is he *guilty* of the Treaſon, whereof he ſtands *Indicted*, and hath been Arraigned? or *Not guilty*?

*Fore-man.* Guilty.

*Then the Keeper was charged to look to the* Priſoner.

*Clerk.* What *Goods*, and *Chattels*, had he at the time of committing this Treaſon, or at any time ſithence?

*Fore-man.* None to our Knowledg.

*Which* Verdict *being repeated to the* Jury *by Mr.* Clerk of the Crown, *the* Jury *owned it unanimouſly.*

*Councel.* My *Lords*, upon this *Verdict*, that hath been given againſt the *Priſoner* at the *Bar*, I humbly move, that we may have *Judgment* given.

Your

Your *Seſſions* will be long, and your work will be great; his Demeanour hath been ſuch, that he doth not deſerve a *Reprieve* for ſo many Days, that you are like to ſpend in this *Seſſion*.

*Court.* Mr. *Harriſon*, they deſire *Judgment* upon the *Verdict*. What do you ſay for your ſelf, why *Judgment* ſhould not paſs againſt you?

Clerk. *Thomas Harriſon*, hold up thy Hand. What haſt thou to ſay for thy ſelf, why *Judgment* ſhould not paſs againſt thee, to dy according to *Law*?

Mr. Harriſon. *I have nothing further to ſay; becauſe the* Court *have not ſeen meet to hear what was in my Heart to ſpeak, I ſubmit to it.*

The *Cryer* made *Proclamation* for *Silence* whileſt *Judgment* was in giving.

Sir *Orl. Bridgman.* You, that are the *Priſoner* at the *Bar*, you are to paſs the *Sentence* of Death; which *Sentence* is this. The *Judgment* of this *Court* is, and the *Court* doth award; that *You be led back to the place, from whence you came, and from thence to be drawn upon an Hurdle to the place of Execution, and there you ſhall be hanged by the Neck, and being alive ſhall be cut down, and your Privy-Members to be cut off, your Entrails to be taken out of your Body, and (you living) the ſame to be burnt before your Eyes, and your Head to be cut off, your Body to be divided into four Quarters, and your Head, and Quarters, to be diſpoſed of at the pleaſure of the King's* Majeſty: *and the Lord have Mercy upon your Soul.*

And then *Proclamation* was made for *Adjournment* of the *Court* to this place till ſeven of the Clock to morrow morning. And all *Jury-men*, and *Witneſſes*, were commanded to be at the ſaid *Place*, and *Time*, upon Forfeiture of an hundred Pounds apeice.

*October*

*Octob.* 12. 1660.

# The Proclamation for Silence.
# The Jury called.
# Priſoners brought to the Bar, *viz.*

*John Jones, Adrian Scroope, Thomas Scot, Gregory Clement, John Carew.*

*Cryer.* Sir *Thomas Aleyn.*

*Clerk.* Sir *Tho. Aleyn*, lay your hand on the Book, look upon the Priſoner at the Bar.

Scroope. *I challenge him my Lord.*

*L.C.Bar* That you may not miſtake if you challenge in this manner, and do not joyn in your challenges, we muſt try you ſeverally one after another; I muſt tell you the courſe of the Law, If one challenge one, and another challenge another, we muſt ſever, and go to Tryal one by one. Call the next.

*Cl.* Sir *Henry Wroth.*

Scroop. *I challenge him.*

*L. C. Bar.* Then we muſt go on ſeverally, ſet all aſide but Mr. *Scroope*; Mr *Scroop*, you may challenge particularly whom you will till you come to 35. if you go beyond that number, you will loſe the benefit of the Law.

Scr. *I deſire my Lord, that whoſoever was challenged yeſterday, may not be called again,*

*Court.* No, that cannot be, that is nothing to you. The Court thereupon proceeded, and called ——

Challenged, *John Liſle, Nic. Raynton, Thomas Wynter, Thomas Frankelyn, Randal Nichol, Jo. Kirke, Ambroſe Scudamore, George Tirrey*, who were all challenged

Jury *Thomas Willet, Hen. Marſh, Charles Pitfield, Chr. Abdy, Rich. Cheny, Tho. Bide. Jo Smith, Richard Abel, Ralph Halſal, Jo Gallyard, Tho. Swallow, Sam. Starnel*, were admitted and ſworn on the Jury.

*Cl.* Cryer, make Proclamation. If any man can inform my Lords the Kings Juſtices, the Kings Serjeant, or the Kings Attorney, before this Inqueſt be taken between our Soveraign Lord the King, and the Priſoner at the Bar, let them come forth and they ſhall be heard, for now the Priſoner ſtands at the Bar upon his delivety, and all others bound by recognizance to give evidence againſt the Priſoner at the Bar, let them come forth and give their evidence, or elſe they ſhall forfeit their recognizance.

*Cl. Adrian Scroope* hold up thy hand; you Gentlemen that are ſworn, look upon the Priſoner, and hearken to his charge; you ſhall underſtand, &c. upon this Indictment he hath plead not gulity.

M. *Soll.* May it pleaſe your Lordſhips and you Gentlemen of the Jury; this Priſoner at the Bar ſtands indicted for compaſſing and imagining the death of the late King of bleſſed memory. The Indictment ſets out, that to that end and purpoſe the Priſoner at the Bar did with others, aſſemble and ſit together at *Weſtminſter Hall* conſulting upon him, and uſurped an authority to proceed againſt the life of our ſaid late Soveraign & in perſuance of that, our late Soveraign was brought to his death. Theſe things are alledged in the Indictment as ſerveral overtracts to ſhew the treaſon of his heart, which was the compaſſing and imagining the death of the King; Compaſſing and Imagining are the words of the Statute, the reſt of the Indictment is but as ſo many overt acts, evidences and manifaſtations of that corrupt and wicked heart of his, by which he firſt thought ſuch a thought againſt his Soveraign. The manner of our evidence ſhall be this; Before they could com to accompliſh this damnable deſign it was neceſſary to meet in a trayterous aſſembly, which they called the *High Court of Juſtice*, that under the pageantry and mockery of that, they might pretend to murder him by a ſentance; and before that aſſembly could come to ſit, there was a Precept ſet forth very formerlly to ſummon them to ſit. This Priſoner at the Bar is one of thoſe perſons, who under his hand and ſeal did ſummon that Court to ſit upon the life of our late Soveraign. When the Court in obedience to that ſummons (as they called it) did meet, they ſate ſeveral times, and he among them; they did proceed with a wonderfull impudence (as they had begun) to pronounce ſentence of death upon our late Soveraign, My Lords, this Priſoner at the Bar was amongſt them, and was at that Court, and gave the ſentence. When they had done, that they might com-

pleat

pleat their villany, they made a bloody Warrant for ſevering the head of his late Majeſty from his body, and the hand of the Priſoner at the Bar is to that Warrant alſo; and this is the ſcope of our Indictment.

*Scro.* My Lords, may I have liberty to ſpeak?

*Court.* If you do confeſs this which is opened in evidence againſt you, we ſhall not need to examine any Witneſſes.

*Scr.* Examine what you think fit, if I underſtand that worthy Gentleman that ſpeak laſt, he ſaid that my hand was to the Warrant for Execution; My Lord, if I can ſee my hand I can tell, and I will not deny my hand.

*Court.* Shew it him, which was done acorrdingly.

*Scr.* My Lords, I will not deny but that it is my hand, but it is not my ſeal.

*Council.* Cryer call Mr *Maſterſon*, Mr *Krike*, Mr *Clarke*, Mr *Carr*, who were all ſworn.

Mr *Maſterſon*, pray tell my Lords and the Jury, whether you did ſee the Priſoner at the Bar in that which they called the *High Court of Juſtice*, ſitting as a Judge upon the late King.

Mr *Maſt.* My Lords and Gentlemen of the Jury, I ſaw upon the 22. or 23. of *Jan.* in the year 1648. the Priſoner at the Bar ſitting upon the Bench as one of the Judges in that which they called the *High Court of Juſtice*; the King ſtanding a Priſoner at the Bar; I ſay either 22. or 23. But I ſay particularly upon the 27th. day of *Jan.* 1648. in which the ſentence was paſſed upon the late King, I ſaw the Priſoner at the Bar ſitting upon the Bench, in that which they called the *High Court of Juſtice.*

*Coun.* How did he demean himſelf when the ſentence was read?

Mr *Ma.* When the ſentence was read, it was by the Preſident (as he was called) of that Court, ſaid to be the Sentence and Judgment of the whole Court, upon which the Priſoner at the Bar roſe up, as to my apprehenſion, teſtifying his aſſent. All their aſſents were taken ſo and no otherwiſe to us that were as ſpectators.

*Scr.* I beſeech your Lordſhips that I may ſpeak without offence, and anſwer to this.

*Court* Mr *Scroope*, you may pleaſe to have Paper, and pens, and Ink, to take Notes, or to ask any queſtions.

*Scr.* My Lords, give me leave to ask him this queſtion, whereabouts he did ſee me ſit in the Court.

*Court.* M. *Ma.* you hear the queſtion, pray anſwer to it.

*Ma.* My Lords, I cannot particulary ſay where he ſat, but I ſaw him in the Court, and to the beſt of my remembrance it was on the ſecond ſeat on the left hand of *Bradſhaw.*

*Scr.* I would not give offence to the Court in any kind, I am now pleading for my life, I deſire to take a little liberty to ask this Gentleman, if ever he and I were in company together that he knows me ſo well.

*M.* For my part I do not remember I ſaw his face before the ſitting of that Court: If this Gentleman ask me if I were ever in his company, I know not how I may conſtrue the word Company: but I am ſure I never eat nor drank with him, I have ſeen him very many times at Commites, more then twenty times ſince that buſineſs.

Mr *Clark* called,

*Coun.* Mr *Clark* you have heard the queſtion, did you ever ſee the Priſoner at the Bar in that which they called the High Court of Juſtice.

Mr. *Clark,* I do remember in the year 1648. I ſaw the Priſoner ſitting in that which they called the High Court of Juſtice upon the Tryal of the King.

Scr. *My Lords you may deſiſt in examining witneſſes touching my ſitting.*

*Court.* Do you acknowledge you did ſit in that which they called the High Court of Juſtice,

Scr. *Yes, I ſee it proved, and I ſee a Gentleman here in my eye that I know very well, I will not deny it.*

*Court.* Did you ſit upon the ſentence day, that is the Evidence, which was the 27th. of *January*: You are not bound to anſwer me; But if you will not we muſt prove it. Do you confeſs that.

*Scr.* I do not confeſs that I ſtood up as aſſenting to the Sentence. Mr *Clark* called.

*Coun.* Mr Clark what ſay you to that?

*Clark,* I did not take particular notice of him that day, that he ſtood up; but the whole Court ſtood up to my apprehenſion, but I took notice that he was there then preſent.

*Coun.* Mr *Clark* do you remember that you ſaw any of them ſit?

*Cl.*

*Cl.* I did not take notice of any that ſate then, but all ſtood up to my thoughts. Mr *Carr* called.

*Coun.* Mr *Carr*, tell my Lords and the Jury whether you did ſee the priſoner at the Bar ſitting in that which they called the High Court of Juſtice.

*Carr.* My Lords and Gentlemen of the Jury, the 22. 23. and 27th of *Jan.* 1648. I was preſent when the names of that they called the High Court of Juſtice were called, and amongſt others that were Judges of that Court as was Printed in a Paper which I then had in my hand, I found the name of Mr *A. Scroope*, who I ſaw did there ſet and appear.

*Mr. Carr looked in that Paper when he gave this Evidence.*

*Scr.* I hope you will not take any Evidence from a Printed Liſt.

*Coun.* The manner of his Evidence is, he ſaith this, That he had this Printed Paper in his hand when the names of that Court were called, and marking the perſons in that Paper who were preſent, and that you were one of them who did appear.

*Scr.* My Lord, I ſhall not diſpute in regard of my want of skill in the Law, the Lawfulneſs of bringing in any Paper in Evidence into the Court I ſhall not deſpute againſt your Lordſhips: But by your favour, I do ſuppoſe there is no witneſs ought to uſe any Paper, or look upon any paper when he gives Evidence, but I ſhall ſubmit it to your Lordſhips.

Mr. *Soll.* Ask him the queſtion without his Paper; but yet nothing is more uſual than for a witneſs to make uſe of a Paper to help his memory.

*Scroop.* The Gentlemen that ſpeak laſt I cannot hear him.

Mr *Soll.* We do not need his Paper in this Caſe, he will tell it without a paper. Mr *Carr* ſpeak without your paper.

*Carr.* My Lords, upon the calling of thoſe that were Judges in that Court which they called the High Court of Juſtice then ſitting, this Gentleman the priſoner at the Bar did anſwer to his name then called.

*Scr* Did you ſee me?

*Carr.* I heard you anſwer, and ſaw you.

*Scr.* I pray he may be asked where about I ſate in that Court.

*Coun.* Mr *Carr* you hear the queſtion, anſwer to it.

*Carr.* I am not able particularly to tell now, it being many years ſince.

*Scr.* My Lord, obſerve of what value this Evidence is, I am ſure

I never was in his company, I do not know that ever he saw me in his life: I beseech you give me leave to plead for my self in all humbleness and modesty my Lord.

*L.C.Bar.* Notice is taken of it Mr *Scroop*, God forbid you should be debarred of it.

*Scr.* I say he comes in with evidence of a Paper he heard my name called and marked it: It is strange that a Gentleman whom I never saw, I know not his name, nor I do not think he knew my name if he had met me.

*L.C.Bar.* I told you that was laid aside, and you heard him speak *viva voce* without a Paper.

*Coun.* Mr *Kirke* did you see the Prisoner at the Bar in that Court which they called the High Court of Justice for Tryal of the late King.

*Kirke.* My Lords and Gentlemen of the Jury I did see the Prisoner there, and I did wonder to see him there, which was the reason I took the more special notice of his being there.

*Scr.* Pray my Lord let me intreat one thing before he speaks that your Lordships will be pleased to speak to him to give in his Evidence with out any speech.

*Coun.* How can that be? Can he give Evidence without speaking?

*Scr.* I beseech you my Lords give me leave to say this, let him give in his Evidence in plain words without any speech.

*L.C.Bar.* Mr *Scr.* he must be excused, there are Circumstances inducing which are as much as the principal, this that he hath said is very material; saith he, I did see the Pirsoner at the Bar there, I did not expect it, and wondered at it, and therefore took the more notice —— Let him go on, ask him what question you will.

*Scr.* My Lord I submit.

*L.C.Bar.* Mr *Kirk* you must speak the truth, and the whole truth; go on.

*Kirk.* I say as I said before, I saw this Gentleman sitting in that which they called the High Court of Justice, and I did therefore wonder at it, because I did not expect him there: I came to know him formerly as he was called Captain *Scroope*.

*Coun.* Go on.

*K.* And as I said before, I saw this person, this Prisoner at the Bar,

Bar, ſit amongſt the reſt of thoſe perſons, Judges as they called themſelves of the High Court of Juſtice for the Tryal of the King, I did more particularly take notice of this perſon becauſe I did not expect him there: I knew him formerly upon this report, being an eminent man, by the name of Captain *Scroope*, and at that time was an aſſociate of one Captain *Vivers* and Captain *Wingham*, I had not ſeen him ſome years before this buſineſs, and ſeeing of him there I did the more particularly take notice of him.

*Scr.* Have you done Sir? I beſeech your Lordſhip ask him what imployment he had there himſelf when he ſaw me there.

*K.* My Lord I was there to hear the Tryal.

*L.C.Bar.* Mr *Scroope* I am not willing you ſhould have any thing of interruption unleſs you reflect upon any perſon, that concerns not you Mr *Scroope*, do not think it will be for your advantage, nor is it proper for you to ask.

*Scr.* In all humbleneſs I do ſpeak it to your Lordſhips, that your Lordſhip will pleaſe to conſider that if he had any imployment in that buſineſs himſelf, how fit a witneſs he is againſt me.

*Court.* Much fitter.

*Scr.* If it be ſo I have done,

*K.* My Lord, I was there only as a ſpectator, I went only there to ſee and hear what was there to be ſeen and heard, I ſtood there and took Notes in Characters of the proceedings, and ſeveral others with my ſelf did the like, and we compared them together, that was all my buſineſs at that time, and I ſaw him ſit there the 27. day of *Ian.* 1648. which was the day of the ſentence againſt the King,

*Scr.* Where abouts did you ſee me ſit there?

*K.* It is not I think imaginable that any perſon ſhould be able after ſo many years, poſſibly to ſay were any perſon ſate, but to the beſt of my remembrance you ſate upon the ſecond bench next the Preſident: But I dare not be poſitive in that, I dare not juſtifie it upon my oath, it is but my remembrance.

Here Mr *Scroope* talk to one that ſtood near him.

*L.C. Bar.* We muſt deſire that of you Mr *Scroope*, that you will not ſpeak to any here but what the Court may hear.

*Scr.* I ſhall obſerve your commands.

Mr *Coitmore* ſworn.

*Coun.* Did you ſee the Priſoner at the Bar ſitting in that which they

they called the *High Court of Justice*, as a Judge upon the King?

*Coit.* I did see him.

*Coun.* When, what day?

*Coit.* I cannot name the day, I was there three dayes of their sitting, there I saw him once or twice, once I am sure,

*Scr.* What day?

*Coit.* I cannot remember.

*Coun.* Did he sit thereas a Judge upon the King?

*Coit.* He sate amongst the rest as a Judge.

*Scr.* Give me leave to ask him where abouts he saw me sit.

*Coun.* Where did you see him sit?

*Coit.* I cannot remember the place, he was among them, I saw him either one or two dayes, there was a great company of them together.

*Coun.* Mr *Nutley*, did you see the Prisoner at the Bar sitting in that which they called the High Court of Justice?

*Nut.* If it please your Lordships, I was there in the Court those four several dayes that they sate in Judgment, I heard the Prisoner at the Bar called by his name, I did take notice he was there, truly I think he was there twice or thrice to my remembrance.

*Coun.* Can you tell what day, whether the 27. of *Jan.* 1648.

*Nut.* I cannot say positively, but to the best of my remembrance he was there, that was the last day when Judgment was given.

Mr *Baker* sworn.

*Coun.* M. *B.* what say you, did you see the Prisoner at the Bar. sitting in that which they called the High Court of Justice?

*Ba.* Yes, I did see Col. *Scrrope* on Tuesday the 23. of *Jan.* 1648? very particularly stand up and answer to his name.

*Coun.* M. *Coitmore*, are you acquainted with Col. *Scroops* hand?

*Coit.* I have had several Letters from him,

*Coun.* M. *Scroope*, have you a mind to see the Warrant for summoning the Court?

*Scr.* I desire to see it; I do, not remember I set my hand to it,

*Court.* Shew it him. It being shewed him.

*Scr,* I cannot say it is my hand.

*Coun* It is too true, we shall prove it to you.

*Court.* Shew it to M. *Coitmore.*

*Scr.* Be pleased to let me see it once more, which was again shewed him: Truly, My Lord, I will save him the labour.

*Coun*

*Coun.* You do acknowledge it was your hand?

*Ser.* I'le ſave him the labour, for I confeſs I do not love men ſhould be put to there oaths more then needs.

Here likewiſe the Warrant for Execution was read.

*Coun.* My Lords, we ſhall conclude our evidence with Major General *Brown*, the Lord Mayor Elect.

*The Lord Elect ſworn.*

*Coun.* My Lord, be pleaſed to tell my Lords what diſcourſe hath lately paſſed between the Priſoner at the Bar and you, concerning the death of the King.

*Lord Elect.* My Lords, upon ſome occaſion I was accidentally at the Chamber of the Speaker, there I met this Gentleman whom indeed I knew not; he told me who he was: and when I underſtood who he was, I ſaid to him (or words to this purpoſe, I cannot tell the words) becauſe I would not diſtaſſe him, and ſay *you* have done this, therefore I put it thus: *We* have done this, What a ſad caſe have *we* ſaid I brought this Kingdom unto? Why, ſaith he? you ſee, ſaid I, how it is ruined now the King is murthered, *&c.* Saith he *ſome are of one opinion, and ſome of another.* Sir, ſaid I, do you think it was well done to murther the King; ſaith he, *I will not make you my confeſſor*, Sir, it was much to this purpoſe.

*Coun.* When was this ſpoken?

*Lord Elect*, Truly I do not know the day, but it was that day that Sir *H. M.* randered himſelf to the Speaker, it was ſince the coming in of the King.

M. *Sol.* Neither time, nor the hard of God appearing in this buſineſs, nor the condition he was in, was ever able to bring this Gentleman to be ſorry for his offence; but we do not give it as any evidence of his crimes: You have heard the Priſoner confeſſe the two Warrants; you have heard by ſeveral witneſſes produced, that he did ſit in that which they called the High Court of Juſtice, by three, that he ſat particularly on that day they called the day of their Judgment; you have heard how little penitence he hath had, by his Declaration to the Lord Mayor Elect.

Scr. *I hope now that you have heard the Evidence againſt me, that you will give me leave to make ſome defence for my ſelf.*

*L. C. Bar.* God forbid other wiſe, but that you ſhould have free liberty.

Scr. *Truly my Lords, though my breedong hath not been in the way*

*of the Laws, and therefore I have a great disadvantage, when there be such learned Gentlemen as these are to plead against me. I must confess to you, I have something for matter of Law to plead for the justification of the fact, though I would not undertake to justifie the person, this I humbly entreat, if it may be granted, that I may have some time given me and some Counsel, that I may answer matter of Law.*

*L. C. Bar.* M. *Scroop*, if you have any thing of matter of Law, for which you would have Counsel, you must alledge that matter first; the use of Counsel is onely to put in certainty, what you have of matter of Law, and then the Court and Judges must judge of it. If you have matter of Law, you must tell what it is; if it be matter that there is cause to over-rule it, there is no cause of making further use of Counsel. If one be indicted for murther, when he comes to Tryal, he will say, I have matter of Law to plead; What is that? That Murther is no felony: Do you think Counsel will be admitted in this? If you do alledge what this matter is wherein you desire Counsel, you shall have your answer.

Scr. *My Lords, as well as I am able to do it I shall do it; my Lord, I was not of the Parliament; take notice of that, and that which was done in the High Court of Justice, it was done by a Commission from the Parliament. My Lord, it was that Authority which was then, I will not say it was so, because I would not give offence; it was that Authority then which was accounted the supream Authority of the Nation; and that Authority, My Lord, that a great many of the generality of the Nation submitted to. My Lord, I having received a command from that Authority, what I did was in obedience to that Authority: My Lord, I have not had time to consider of these things, because I have been for these six weeks time shut up a close Prisoner, and that I could not come at Counsel nor any thing else, nor to get any thing to prepare for it; therefore I desire your Lordships to do me the favour, if you see any weight in it, to let me haae time and Counsel assigned me.*

*L. C. Bar.* Have you done Sir?

Scr. *Yes.*

*L. C. Bar.* Then I take it, this is the effect of what you have said, if I have not taken it aright tell me so; You say you justifie the fact though not your person; That you were not of the Parliament,

ment; That what was done was by Commiſſion from the Parliament: Be pleaſed not to miſtake me; for I ſay you ſaid this: That that which I have to plead in juſtification of it, I do not ſay that I juſtifie my ſelf, but that which I have to ſay is for juſtification of the Fact: I was firſt no contriver of the buſineſs; And then ſecondly, I did it by vertue of the Command, and in obedience to the Authority of the Parliament: that that Authority was then accounted the Supream Authority of the Nations, and that the Generality of the Nations did ſubmit to their Authority; I think I have repeated all you have ſaid. Then Mr. *Scoop* you muſt know this, That there is no cauſe at all why Counſel ſhould be given for what you ſpeak; I profeſs it rather tends to the aggravation then extenuation of what you did. Firſt, you ſay you did it by Authority of Parliament, I am afraid you have been miſtaken as well as others by the word Parliament, what doth that mean? I am ſure you and every one knows that there was not one Preſident ever heard of till this, That the Houſe of Commons ſhould take upon the Legiſlative Power, and make ſuch an Act as this was, there was no colour for it. Then for men upon their own heads never heard of before, and againſt the Liberty and Freedome of the People, that they ſhould call it the Parliament when there was but 46 ſate, whereas there was above 240 excluded; & how you can call this a Houſe of Commons is a great wonder to me; but I tell you this take it for granted, that if they were the nioſt perfect Houſe of Commons that could be: Did ever the Houſe of Commons before this ſingle Act, take upon them the Legiſlative Power without the Lords: the Acts are begun in the Commons Houſe; when you have done, if the Lords do not paſs it it, is abortive; if it be done by both Houſes, there ought to be a Royal aſſent: But the Lords had rejected this Act; then they muſt take upon them theſe 46 men, whereof I do believe there was not above 25 or 26 men that did vote this, and this muſt be called the Parliament, the Commons of *England*. I would fain know whether any man hath heard that the Houſe of Commons took upon them the Legiſlative power before this Act; but this hath been over-ruled in the like Caſe, and I ſhall ſay no more to it. What is the Oath of Allegiance? is it not that you would defend the King, his Crown, Rights and Liberties, againſt all perſons whatſoever? It was not only againſt the Pope, (as ſome would have it)

but the word is, *or otherwiſe*: They broke the oath of Supremacy: which was, *That the King was the Supream Governour of theſe Nations*: They ſwore that they would maintain and keep all priviledges, Immunities, Preheminencis, annexed to the Imperial Crown of this Realm; there is difference between ſome Crowns and Imperial Crowns; An Imperial Crown, it was that which was not to be touched in the Perſon: We do not ſpeak any thing of the abſolute power of the King; for you ſee He cannot Judge concerning the death of his Father but by Laws. When you ſwore this Allegiance, all thoſe Members to break all this at once, This would be ſo far from having any colour of Authority, that he that juſtifies it, juſtifies it againſt the light of conſcience and Laws: You ſay you did it by Commandment from them; He that doth a command by ſuch an Authority, it is his guilt: Our Law books ſay, That if a Court at Common Law exceed their Juriſdiction in that Caſe, he that obeys that command is puniſhable. In the Court of Common Pleas, if there be an appeal there for Murther, it is only proper to the Upper Bench; and therefore if the party be condemned, ſentenced, and executed thereupon, the Executioner in that Caſe is guilty of Murther, for obeying that Authority which was indeed no Authority; And therefore whereas you would go about to juſtifie the Fact, becauſe you did it by Command of that Authority, that is an Aggravation, That when men ſhall aſſume an Authority which is a Devil at the noon day appearing without Vizors; I ſay, ſhall aſſume an Authority never heard of before, If men will countenance their Acts by obeying of them, it is an Aggravation, We have already Declared this in the Caſe of the Priſoner yeſterday; We are all ſatisfied in the Law in that Caſe: It is ſo clear a point in Law, that my Brethren here and we did overrule it yeſterday in the like Caſe, and ſo we muſt now; and I hope that all do concur in this opinion that hath been delivered.

*Lord Finch.* I hope all do concur in this opinion delivered by my Lord Chief Baron: You ſhelter your ſelf under a Command of the Houſe of Commons; But let me tell you and all the world, That if the Houſe of Commons (let it have been never ſo compleat) had given a Command, it had been a thing no ways juſtifiable; the Juſtification is an Aggravation.

Scr. *My Lord, I do ſee that every thing I ſpeak, though it be for the clearing of my ſelf from your ill opinion, I ſee it is taken in an*

*ill*

*ill ſenſe ( I humbly beſeech pardon for the Expreſſion ) if I erre I will crave your Lordſhips pardon ; But my Lord, I ſay this, If I have been miſled I am not a ſingle perſon that have been miſled. My Lord, I could ſay, ( but I think it doth not become me to ſay ſo ) That I ſee a great many faces at this time that were miſled as well as my ſelf ; But that I will not inſiſt upon : I ſay this, That I hope an Errour in Judgement ſhall not be accounted Malice, or an Errour of the Will: Truly ( my Lord ) I never went to the work with a malicious heart : I humbly deſire your Lordſhips to take notice of it, That I never bore any malice at all againſt his late Majeſty.*

*L. C. Bar.* Mr *Scroop* have you done?

Scr. *My Lord, I do beſeech your Lordſhip to take notice, That an Errour in Judgement is not an Errour in the Will.*

*L. C Bar.* Mr *Scroop*, I am very glad to hear you ſay ſo; But let me tell you what the Law ſaith; The Law in this Caſe creates the malice. If a man do an act of this nature, that may, be ſome kind of excuſe to God, but towards man you are to look to the Fact, the Law implies the malice. If there be any thing you will ſay in the Extenuation of your offence, we will be very glad to hear that may tend to your help.

Scr. *My Lord, There is one Evidence comes in againſt me, that I muſt confeſs that I am very ſorry to ſee ; and my Lord there was a ſaying it is by my* Lord Mayor Elect: *Truly he is a worthy Gentleman, but I deſire the Lord may forgive that which he hath ſpoken : Truly my Lord, I did never intend any thing in this, neither can I directly remember that I ſpake thoſe words directly, as my* Lord Mayor Elect *doth ſpeak: I do beleeve my* Lord Mayor *cannot very well remember them himſelf ; for he ſaith, So far as he can remember : I muſt confeſs that when I was there, and had appeared according to the Proclamation, that ſuch diſcourſe ſomewhat like it was raiſed, not of my procuring, I did not procure the Dicourſe ; I never intended the Juſtification of the Fact ; but it was my ill ſucceſs that I ſhould meet with that worthy Gentleman to have ſo much diſcourſe with him.*

*L. C. Bar.* Mr *Scroop*, my Lord Mayor Elect ſaith no further then this, *So far as he remembers*, and the words that you ſhould ſay were theſe, *That ſome are of one opinion, and ſome are of another.*

Scr. *Upon the death of the King* ( My Lord ) *I muſt confeſſe to*

*you*

*you, that ſomewhat I ſaid to him, but I cannot own that I ſaid thoſe words.* My Lords, *He is a worthy perſon, I do not deſire to ſpeak any thing to degenerate in the leaſt kind from him, it is but his yea & my no, there was no body there.*

*L.C. Bar.* Have you any thing more to ſay for your ſelf.

*Scr.* My Lord, if your Lordſhip do over-rule it ſo that I may not have Counſel, I have little more to ſay.

*L.C Bar.* You have heard the ſence of the Court in that particular, you cannot have Counſel allowed you as to the matter you have pleaded.

*Scro.* I have done but only this, My Lords, I know not whether it be ſeaſonable to mention it, I came in upon the Proclamation, and My Lord, by means of theſe unhappy words that have been reported of me in the Houſe of Commons, whereas before I was no excepted perſon, I came to be excepted, and upon the very laſt day of the paſſing that Act, I never was excepted before the very laſt day: I beſeech you take notice of this,

*L.C. Bar.* M. *Scroop,* That is a thing that is not before us, but there will be a proper time to conſider of it in another place, that is nothing to the tryal; have you any more to ſay Sir?

*Scr.* No, My Lord; Will your Lordſhip pleaſe to let me ſpeak a word to the Jury.

*L. C. Bar.* If you ſpeak to the Court, the Jury will hear it.

*Scr.* Truly my Lord, This I do perceive, that I am under a very great prejudice as to this fact, It hath been the caſe of many Gentlemen beſides my ſelf, I deſire that theſe Gentlemen would take my caſe into conſideration as they would their own, and I deſire that the Lord would give them direction that they may do that which is according to Juſtice and Mercy; that is all I have to ſay my Lords.

*L.C. Bar.* You Gentlemen that are ſworn of this Jury, you ſee the Priſoner M. *Scroop,* hath been indicted for imagining and contriving the death of his late Majeſty of bleſſed memory, King *Charles* the firſt; you ſee there are ſeveral things in this Indictment; the charge is the Imagining and compaſſing the death of the King. In the Indictment there are ſeveral matters of fact to prove this Imagination. The Imagination is the Treaſon, the matters of fact to prove it are but the evidences of that imagination; if any one of them be proved to you it is ſufficient, the one is conſulting

and

and meeting together how to put him to death, the other ſitting and aſſuming Authority to bring him to Tryal. Then you have a ſentence by the Court to put the King to death thereupon. Afterwards he was put to death; any one of theſe matters are evidence enough for you to prove the Indictment; for though the Indictment concludes that ſo they did imagine and compaſs the death of the King, and that the King was put to death in manner and form as aforeſaid; the manner and form aforeſaid goes to this, To the imagination of the heart, for the Law did not think any one would put the King to death, they thought it ſo high a crime, they thought it not convenient to bring it into the Statute. But the compaſſing and imagining the death of the King is made Treaſon: Then to apply it, this fact to the Gentlemen, it appears to you here by the proofs againſt him. Here is M. *Maſterſton* he ſwears he ſaw him ſit in that pretended Court, there was your evidence of the firſt, the firſt was their meeting together, and of the ſecond too, They did aſſume Authority upon them; and he ſwears further to the ſentencing, that the Priſoner was there. Here were the three overt acts all proved. He confeſſes he did ſign the Warrant for putting the King to death: This without any witneſs at all, was a ſufficient proof, a proof of proofs. The other Witneſſes you hear what they ſay, you hear M. *Kirke*, M. *Clarke*, M. *Nutley*, ſwear all to his ſitting there. It is true, when this comes to the particulars where he ſate, you muſt remember it was twelve yeers ago, when a man ſees a mixt number of about eighty perſons; it is impoſſible a man ſhould be able to anſwer this particular after twelve years where ſuch a one ſate: but you may ſee by his ſentencing what he did. They all witneſs they ſaw him poſitively, and one tells you, he wondered he ſaw him there, and indeed it might be a wonder, for M. *Scroop* (to give him his right) was not a perſon as ſome of the reſt; but he was unhappily ingaged in that bloody buſineſs, I hope miſtakenly; but when it comes to ſo high a crime as this, men muſt not excuſe themſelves by ignorance, or miſguided conſcience. As to God for this horrid murther of the King, ſomewhat may be, but there is no excuſe or extenuation before man, there may be I ſay before the Lord. You ſee the proof is full againſt this Gentleman, as full as may be, witneſſes ſaw him ſit, and he himſelf confeſſed he ſigned the Warrants. I have no more to ſay to you; but Gentle-

men

men you see what it is, I think for matter of fact you need not go from the Bar, but I leave it to you.

*Scr.* My Lord ——

*L.C. Bar.* M. *Scroop* if you have any thing to say, when the Jury have brought in their Verdict, if you will say any thing for matter of mercy, the Court will hear you.

*Scr.* I thank your Lordship.

The Jury went together, and presently setled themselves in their places.

*Cl. A. S.* hold up thy hand. Look upon the Prisoner; How say you, is he guilty of the Treason whereof he stands indicted, and hath been arraigned, or not guilty?

*Jury*, Guilty,

*Cl.* What Goods and Chattels, *&c.*

*Jury*, None that we know.

*L.C. Bar.* If you will say any thing the Court will hear you.

*Scr.* I have no more, My Lord, but refer my self to this honorable Court.

*Clerk.* Set *John Carew*, *Tho. Scot*, *John Iones*, and *Gregory Clement* to the Bar, who were set accordingly; and being commanded, they severally held up their hands,

*Cl.* These men that were last called, *&c.*

Sir *Tho. Aleyn*, lay your hand on the Book: Look, *&c*,

*Carew.* I challenge him.

*L C. Bar.* Are you all agreed as to your Challenges.

*Pris.* No, my Lord.

*L.C. Bar.* Then we must do as before, sever you, and go to tryal severally: take the three away, and let M. *Carew* stand at the Bar.

Challenged, *Charles Pitfield*, *Wille. Will. Smiths*, *Rich. Rider*, *Edward Rolph*, *James Shercroft*. *Tho. Uffman*, *Francis Beal*, *Will. Whitcombe*, *Samuel Harris*, *Jo. Nicol* of *Finchley*, *George Rigth*, *Tho. Fruen*, *Ab. Newman*, *Tho. Blithe*, *Will. Vincent*, *James Hawley*. *Chr*, *Abdy*, *Tho Bide*, *John Smith*, *Abr. Scudamore*, *Ralph Halsel*, *John Galliard*, in all 23.

Jury sworn, *Robert Clarke*, *Thomas Grover*, *Rich. Whaley*, *Sam. Greenhil*, *Nicholas Raynton*, *Tho. Winter*, *Rich. Cheney*, *John Kerk*, *Rich. Abel*, *Thomas Marris*, *George Tirrey*, *Thomas Swallow*, in all 12.

If any man can inform my Lords the Kings Justices, *&c.*

*John*

*Cler. John Carew*, hold up thy hand.

You that are ſowrn, look upon the priſoner: You ſhall underſtand, *&c.*

Sir *Edw. Turner*. May it pleaſe your Lordſhips, our Hue and Cry ſtill proceeds againſt the Murtherers of our late Soveraign Lord King *Charls* the Firſt of bleſſed memory, and this Gentleman the priſoner at the bar is apprehended as one among others for ſhedding that precious blood. Gentlemen of the Jury, he ſtands indicted before you, For that he (I cannot expreſs it better) not having the fear of God before his eyes, but being ſeduced by the inſtigation of the Devil, he did imagine and compaſs the death of his ſaid late Majeſty. In proſecution of this, Gentlemen, there be ſeveral things that are mentioned in the Indictment, which are the open acts to diſcover to you theſe ſecret and private imaginations. He did meet and conſult with divers perſons touching the death of the King, that did uſurp and take upon them to exercife a Power and Juriſdiction to try the King; and finally moſt horribly put him to death. The Treaſon by the Statute of 25 *Edw.* 3. and which you are to enquire of is, the imagination and compaſſing the death of the King, the reſt of the Indictment are but particulars to prove that he did ſo imagine and compaſs the death of the King. If we ſhall prove theſe or any of theſe facts, you have then ſufficient to convict them. There was a thing they called a High Court of Juſtice that was ſet up, wherein they did intend to try our late Soveraign Lord, and a Precept made, and that under the hand and ſeal of the priſoner at the Bar amongſt others for ſummoning and convening that bloody Court, where (among the reſt of the Miſcreants) the priſoner at the bar did ſit and had confidence, nay impudence to pronounce Judgment againſt his Soveraign. In this he reſted not, but he among them ſet his hand and ſeal to that bloody Roll or Warrant for putting him to death, which accordingly was done, and to theſe ſeveral open acts we ſhall call out witneſſes and ſo proceed.

M. *Maſterſon*, M. *Clark*, and M. *Kirke* ſworn.

*Coun.* M. *Maſterſon*, look upon the priſoner, did you ſee him ſit in that they called the High Court of Juſtice?

*Lord cheif Baron, Mr. Carew*, if you will have pen, ink and paper, you may have it, pray call for it.

*Carew*, I have no need of it.

*Coun.* M. *Maſterſon*, did you ſee, *&c.*

*Ma.* My Lords, and Gentlemen of the Jury, I was preſent at that Aſſembly, which they called the High Court of Juſtice for tryal of the King, upon the 22, 23, and 27. days of *Jan.* 1648. and there I ſaw the King ſtand a Priſoner at the Bar. I ſaw this Gentleman the Priſoner at the Bar ſit upon the Bench in that Court as one of his Majeſties Judges, particularly upon the 27 day of *Jan.* which was the day of ſentence, I ſaw him ſitting there.

*Coun.* M. *Clark*, you hear the queſtion; Do you remember that you ſaw the Priſoner at the Bar ſitting in that which they called the High Court of Juſtice.

Mr. *Clark.* I remember I ſaw the Priſoner at the Bar ſitting in that which they called the High Court of Juſtice, for the trial of the late King, and particularly I took notice upon the 23 and 27 of *Jan.* 1648. that he was preſent.

*Coun.* What was done upon that 27 day?

M. *Clark.* The 27 day the late King was ſentenced to death.

*Jury.* What is your name Sir?

*Coun.* His name his *William Clark.*

*Coun.* M. *Kirke*, what ſay you to the former queſtion touching the priſoner, his being at that which they called the High Court of Juſtice.

Mr. *Kirk.* My Lords and Gentlemen of the Jury, I was preſent at the Tryal of his late Majeſty of bleſſed memory, I ſaw that Gentleman the Priſoner at the Bar ſeveral days there, particularly the day of the ſentence, which was the 27 day of *Jan.* 1648. when the ſentence was paſſed he roſe up aſſenting to it. Then the Warrant for ſummoning that pretended Court was ſhewed to M. *Kirke.*

*Coun.* Do you believe that hand to be the hand of M. *Jo. Carew* priſoner at the Bar.

*K.* My Lords, I do believe it to be his hand, I have ſeen his hand to ſeveral Orders, and being very well acquainted with his hand-writing, I believe it to be his hand as much as any man can poſſibly know another mans hand. Then the Warrant for execution of the King was likewiſe ſhewn him.

*Coun.* Is that the hand alſo of the priſoner at the Bar?

*K.* It is the ſame hand, my Lord.

*Court.* Was Mr. *Carew* a member of the long Parliment?

K.

*K.* Yes, My Lord.

*Coun.* Had you occaſion to be acquainted with his hand?

*K.* My Lord, I have ſeen him ſet his hand ſeveral times to Orders and other Papers.

M. *Farrington* ſworn.

*Coun.* Do you know (the Warrants being ſhewn him) thoſe hands to be the writing of the Priſoner at the Bar?

*Far.* My Lords, really I believe theſe are his hands.

*Court.* Are you acquainted with his hand?

*Far.* Yes, My Lord, and I do believe theſe to be his hand-writing, I did not ſee him writ them, but ſo far as poſſibly a man can know anothers writing, I do believe theſe to be his

*Court.* If you will ask to ſee them, you may ſee them M. *Carew.*

*Ca.* Pleaſe you to go on. Here they were both read.

*Coun.* May it pleaſe your Lordſhips, we ſhall not need to trouble the Jury any further, we have proved that the Priſoner did ſign that Warrant for ſummoning that Court of Injuſtice; that he ſate there and ſentenced the King to death among other, and that he ſigned the Warrant for execution.

L. chief *Baron*, M. *Carew*, you have heard the evidence you may pleaſe to ſpeak what you think fit for your ſelf.

*Ca.* My Lords, the crimes that are here laid to my charge in this Indictment, are Treaſon and Murther.

L. chief *Baron*, I would not have you to be miſ-informed, it is Treaſon oneiy, but it carries the other in with it, Murther.

*Ca.* Becauſe you ſay it carries the other incluſively.

L. chief *Baron*, It doth, the charge is the compaſſing and imagining the death of the King, the other is but evidence.

*Ca.* Then the thing that I ſtand upon before the Lord, and before you all, I ſay before the Lord, before whom we muſt all ſtand and give an account of this action, which is a very great & weighty one: And whereas it is charged there, for I ſhall not trouble you with many words as to the particulars, or as to the proofs; but I ſhall ingenioufly acknowledg what the truth is, and how far I can believe it, & therefore I ſay as to the begining of what was charg'd by the Council, and according to the courſe of the Indictment, that what was done in thoſe things, that it was not having the fear of God before mine eyes, but being moved by the Devil, and that it was done with a Trayterous, Malicious, and Deviliſh heart, and

all thoſe things mentioned in the Indictment: As for that I can ſay in the preſence of the Lord, who is the ſearcher of all hearts, that what I did was in his fear; and I did it in obedience to his holy and righteons Laws.

*Here the people hum'd--*

L. chief *Bar.* Go on, he ſtands for his Life, let him have liberty.

*Ca.* It is part of my charge not to have the fear of God, *&c.* I did ſuch and ſuch things. I hope I may have liberty.

L. chief *Bar.* Go on, you ſhall not be interrupted.

*Ca.* I ſay that I did it in the fear of the Lord, and I will begin with that, and confeſs ingeniouſly the truth of it. When this came into queſtion, there was an Ordinance brought in to try the King where my name was not as one of the Judges. There was another afterwards, an Act which I ſhall mention upon what ground by and by what that was, and that Act was brought in and committed, and names brought in, and my Name was not brought in, and ſo afterwards my name was put in, and ſeeing it I did ſtrike it out: After the Committee was up I told them I did deſire to be excuſed in ſuch a buſineſs. I have told you how, wherein, and the ground that I did it, which I ſhall leave with the Lord, in whoſe hand your and my breath, and all our breaths are and therefore when it was ſo, I did becauſe of the weight of it, as being a very great & ſpecial thing, and ſo I was very unwilling becauſe of there being enough which I thought had more experience every way for ſo great a concernment as that was to be imployed rather then I, yet being ſatisfied with that Authority that did it; This is to ſhew you how that I had the fear of the Lord, and did weigh the things: After that, when the Bill was brought into the houſe my name was put in there with ſeveral others, ſo I came to be in; and what I did it was upon theſe two Accounts: Firſt in obedience (as I told you) to the Lord, which was the cheif thing: And in obedience to that which was the: the Supream Authority of this Nation: and therefore I ſhall mention theſe grounds very breifly, becauſe indeed the things that are controverted here at this time, they have been controverted in the face of the whole world in ſeveral Nations; and the Lord hath given an anſwer upon ſolemne Appeals, to theſe things; I ſhall therefore mention them very briefly, becauſe they have been ſo publique. The *Declarations* and *Remonſtrances* that have paſſed between the King and Parliament concerning the beginning of the Wars

L. cheif

*L. chief Baron.* Mr. *Ca.* I would be very loth to interrupt you; But I ſee what courſe is taken, and the peoples eyes are upon you: You ſeek delays, and againſt the courſe of Priſoners you ſay you will confeſs; but you do confeſs the Fact after you have ſpent the time. And all the Witneſſes are heard for this that you ſpeak of now; you go about to juſtifie as in the fear of the Lord, or any thing of that nature, that we cannot allow of; but we do allow you to ſpeak and give the heads of what you will ſay as to the matter of Fact; but to hear you make diſcourſes and debates which are a juſtification of a horrid and notorious Treaſon, we cannot hear it; we ought not to hear the maintaining of open Treaſon; cannot hear you to ſpeak that upon your opening, which is Treaſon: We are willing that you open the heads of what you have to ſay; we are upon our conſciences, and to appear before God for what we do, and ſo are you too; but remember the Devil ſometimes appears in the habit of an Angel of light. If you will couch your matter in a few words, the Court affords you liberty, which is indeed beyond the ſtrict Rules of Law.

Ca. *You ſay you ſit here by the Laws of the Land, and are ſworn to maintain the Laws. We ought not that we ſhould plead to this Indictment, for what we did was by an Act of Parliament.*

*Court.* Pray Sir this muſt not be let fall without reproof, or rather puniſhment.

Ca. *I believe there is no preſident for it.*

*Court.* Sir, We know the Act of Parliament as well as you and moſt of the ſtanders by: You go upon a falſe ground, there was no ſuch Act of the Supreme Authority as you pretend to; theſe are but Phantaſms of your own brain, and muſt not be ſuffered; theſe things have been controverted and decided many a time again and again.

Ca. *I deſire to have time to ſpeak how it was begun and carried on; or elſe how ſhall I be able to make my defence, or to tell you what are the Heads I will inſiſt upon; I ſhall declare the grounds upon which the Parliament did proceed.*

*L. chief Baron.* Mr. *Carew*, If that be your ground, the Parliament did it, the Houſe of *Commons* did it, I have ſomething to offer (not to interrupt you) to the then *Commons*

Ca. *In my humble opinion for the maintaining of this, It was by Authority, the Supreme Authority, by which it was done.*

*Lord*

*L. chief Baron.* Did you ſign this Warrant for the ſummoning and warning of that Court? And did you ſign the Warrant for executing the late King.

Ca. *I deſire I may go on with my defence.*

*L. chief Baron.* We would not have you be miſtaken. You ſeem to confeſs the act, and now you juſtifie it: you cannot ſpeak any thing for your juſtification till you confeſs the fact.

Ca. *I ſhall ſpeak to that in its time.*

*L. chief Baron.* You muſt ſpeak to that firſt that is matter of Fact; whereupon the Jury are to go.

Ca. *There is matter of Law.*

*Court.* You muſt ſpeak to matter of Fact firſt.

Ca. *I ſay this is that I was about to ſay, That the Supreme Authority* ——

*Court.* You muſt ſpeak to the Fact firſt, Whether you did compaſs, *&c.* the Kings death or not; that is the firſt ground, if you did not, there is an end of the buſineſs: It is proved againſt you that you did it; if you come to juſtifie it, it muſt be when you have firſt agreed the matter of Fact.

Ca. *I deſire I may have liberty to proceed either for matter of Fact, or Law as I liſt.*

*Court.* No, no, you muſt firſt ſpeak to the Fact, you may be after heard. You know in all caſes they muſt begin with the Fact, either denying or extenuating; For matter of Law in this caſe muſt ariſe from the fact.

Ca. *But I humbly conceive there is matter of Law in this caſe and it is matter of Law that is above the juriſdiction of this inferior Court.*

Mr. Soll. *Finch,* I pray that he may be held to the iſſue *Guilty* or *not Guilty*: If he deny the Fact, let us relie upon our Evidence and he upon his, he cannot come to Law till he hath confeſſed the Fact. The queſtion is, Whether you did it or not, there is the Fact; if you have any thing to juſtifie, that follows.

Ca. *I was upon that, and going on to ſhew the reaſons and grounds of it.*

*Court.* Firſt you muſt confeſs it, if you will ſhew the reaſons why you did it.

Ca. *I told you there was ſome things I did.*

*Coun.* What are thoſe ſome?

Ca.

Ca. *I do acknowledge that I was there at the Court.*

*Coun.* Did you ſign the Warrants for ſummoning that Court, and for Execution of the King?

Ca. *Yes, I did ſign them both.*

*Coun.* Then ſay what you will.

*L. chief Baron.* Now go on.

Ca. *In the year,* 1640. *there was a Parliament called according to the Laws and conſtitutions of this nation, and after that there was ſome difference between the King and the Parliament, the two Houſes of Parliament, Lords and Commons, and thereupon the King did withdraw from the two Houſes of Parliament, as appears by their own Declaration,* The great Remonſtrance, *printed in* 1642. *and thereupon the Lords and Commons did declare* ——

*L. chief Baron.* Mr. *Carew,* The Court are of opinion not to ſuffer you to go on in this: they ſay it tends not onely to juſtifie your act, but you caſt in Bones here to make ſome difference. You talk of the Lords and Commons, you have nothing to do with that buſineſs: your authority that you pretend to, was an Act of Parliament (as they called themſelves) and that where there was but 46 Commons in the Houſe, and but 26 voted it.

Ca. *I ſay, That the Lords and Commons by their Declaration*——

Mr. *J. Foſter.* Hold your hand a while Sir, not ſo faſt, you go to raiſe up thoſe differences which I hope are aſleep, new Troubles, to revive thoſe things which by the grace of God are extinct, you are not to be ſuffered in this; it is not the ſingling out of a few perſons that makes a Parliament. We ſee as before, ſo ſtill it is your courſe to blow the Trumpet of Sedition, Did you ever hear, or can you produce inſtances of an Act of Parliament made by the Houſe of Commons alone, though this was not the Houſe of Commons, as you heard before.

Ca. *Neither was there ever ſuch a War, or ſuch a preſident.*

*Court.* Nor we hope never will be: Pray remember, you were returned to ſerve in the Houſe; what was that writ that ſummon'd your appearance? You had no manner of ground in the world to go that way that you did.

*Coun.* We pray that the Priſoner at the Bar give us patience a little to repeat that to him which your Lordſhips have been ſo often troubled with declaring; this is not the firſt or ſecond time that in this publique Aſſembly it hath been ſaid, That neither the Lords

nor

nor the Commons, jointly nor ſeverally, have any power at all to proceed upon the Perſon of the King; That it is not in their power to condemn any man in *England*, without the good pleaſure of the King, much leſs the King himſelf; and that this is the great Liberty of the people of *England* that it ſhould be ſo; and it was the firſt breach and invation of our Liberties that that firſt Parliament made, and which you juſtifie in the name of the Lord. In this caſe to throw us upon Debates of the War, and to talk here of the cauſes and reaſons of that quarrel which ended in ſuch a Tragedie. For this perſon to come here with this confidence, and to juſtifie it, but that he knows he cannot be in a worſe condition, one would wonder it ſhould fall from any man that hath any regard of himſelf; it is all one to them that periſh, whether they fall by one ſin or multitudes. He makes no ſcruple to multiply Treaſons; I do beſeech your Lordſhips he may not offer as he hath begun, but that the Jury may proceed.

*Court.* All the Court are of the ſame opinion, not to hear any thing like the former Diſcourſes.

Ca. *I deſire I may be heard, I have not compaſſed the Death of the late King, contrived the death of the King; what I did, I did by Authority.*

*Court.* That is not to be heard: You have heard what hath bin ſaid to you, There could be no ſuch Authority, neither was nor could be; but you would by a wyre-lace bring it in by this; You have confeſſed the Fact which muſt be left to the Jury.

*L. Anſley.* I think you were preſent in the Houſe of Commons when that Vote paſſed for agreement with the King in the Treaty at the *Iſle of Weight*, You know the King having condeſcended to moſt of the deſires of his Parliament; there was a debate in the houſe, and a concluſion that they were grounds for peace. You know the Lords and Commons did reſolve to agree with their King; when that was done that would not ſatisfie you and other Members of the Houſe; Then you go and contrive new ways; you contrive a new faſhioned Parliament, the driving away many Members by power, which you could not do by the Law of the Land; Nay, the Parliament had Declared againſt that which you pretend is by Authority, is no Authority, for a few of you ſet up an Arbitrary Parliament of a few of your ſelves; when you had driven away the reſt: This kind of Parliament

ment gives you the Authority you pretend to: You were saying that the Parliament was called at first the Lords and Commons by the King, according to the ancient Constitution of the Laws; Did such a Parliament give you such Authority as you pretend to, an Act of Parliament, as you call it, which was but an Order of some of the Commons, and but a few of them; you can have no manner of Justification, and therefore your Plea must be over-ruled as yesterday it was in the like Case. You are indicted upon a cleer Act of Parliament of 25. *Edw.* 3. and you defend your self upon pretence of an Act of Parliament which hath been over-ruled as no Act.

Ca. *I am a stranger to many of these things which you have offered, and this is strange: You give evidence sitting as a Judge.*

Lo. *Ch. Bar.* You are mistaken, it is not Evidence; he shews you what Authority that was, an Authority of 26 Members: How is this Evidence? Mr *Carew*, if you have any thing more of Fact go on: If you have nothing but according to this kind of discourse I am commanded to direct the Jury.

Ca. *I am very willing to leave it with the Lord, if you will stop me that I cannot open the true nature of these things that did give me ground of satisfaction in my conscience that I did it from the Lord.*

Mr *Soll.* I do pray for the honour of God and our King, That he may not be suffered to go on in this manner. You have been suffered to speak, you have said but little only Sedition; You pretend a conscience, and the fear of the Lord, when all the world knows you did it against the Law of the Lord, your own conscience, the light of nature, and the Laws of the Land, against the Oaths you have taken of Allegiance and Supremacy.

Ca: *Gentlemen of the Jury, I say I shall leave it with you. This Authority I speak of is right, which was the supream power, it is well known what they were:*

*Coun.* It is so indeed, many have known what they were.

*L. Ch. Bar.* Mr *Carew*, you have bin heard what and beyond what was fit to say in your own defence; that which you have said, the heads of it, you see the whole Court hath over-ruled. To suffer you to expatiate against God and the King by Blasphemy, is not to be indured; it is suffering poyson to go about to infect people, but they know now too well the old saying, *In Nomine Domini*, *In the Name of the Lord* all mischiefs have been done, that hath been an old Rule. I must now give directions to the Jury.

Lo. *Ch. Bar.* Gentlemen of the Jury——

Ca. *I have desired to speak the words of truth and soberness, but have been hindered.*

*Lo. Ch. Bar.* Gentlemen of the Jury, You see the Prisoner here at the Bar hath been Indicted of Treason, and this was for Compassing and Imagining the death of our Soveraign Lord K. *Charles* the First of blessed Memory. The Indictment sets forth several overt Acts to prove this Imagination, for otherwise it is secret in the heart; the Fact it self, the Treason it self, is the Imagination of the heart: The overt Acts that are laid down in the Indictment to prove this, *That they did consult and meet together how to put the King to death; That they did sit upon him*, And thirdly, *That they did sentence him to death, and afterwards he dyed.* You heard what is proved against the Gentleman, the Prisoner at the Bar, by several Witnesses: His own Confession, That he signed the Warrant for Summoning and Convening that Court together, whereby the King was to be brought to his Tryal; and that he sate at his Sentence, and issued the Warrant for his Execution: You saw that this Gentleman did the Fact, did Compass and Imagine the Kings death. That which you are to try is this issue, being Indicted for *High Treason*, and pleading *not Guilty*; whether this Gentleman that went so far, Sate upon him, Condemned him, Signed the Warrant for his Execution, did not *Compass* and *Imagine* the Kings death? I think you need not Stir from the Bar where you are; but I leave that to you.

*After a very small time of Consultation by the Jury amongst themselves at the Bar, they agreed in a Verdict.* Silence was Commanded.

Clerk, *John Carew*, Hold up thy Hand: Gentlemen of the Jury look upon the Prisoner. How say you? Is he guilty of the horrid Treason whereof he stands Indicted, or not Guilty?

*Foreman.* Guilty.

*Cl.* What Goods and Chattels, *&c.*

*Jury.* None that we know of.

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## Mr *Scot*'s Tryal on *Friday*, *October* 12 1660. At the *Sessions-House* aforenamed.

*Clerk.* Set *Thomas Scot* to the Bar, (which was accordingly done) *Tho Scot hold up thy hand.* These men that have been of the

the laſt Jury are to try, &c. If you will Challenge all, or any of them; You muſt Challenge them before they are ſworn.

Scot. *I deſire that thoſe men who have been of the former Jury may not be named. I know my liberty of excepting againſt my number.*

Lo. *Ch. B.* Mr *Scot.* That which you do deſire is a thing not right; the Offence with one is not the ſame with others: I ſpeak not but that the Court will do you all Right; the Court will grant it if you will wave your Challenges; but if you mean thoſe that have been by others challenged, it is againſt Law.

Scot. *I am willing to bring my ſelf upon my Tryal, and I will take the ordinary way of Excepting and Challenging:*

Sir *Hen. Wroth*, Sir *Fr. Whitchcott*, *James Hawley*, *Rich. Rider*, *Fra. Beale*, *Chr. Abdy*, *Nicho. Raynton*, *Tho. Winter*, *John Kirke*, *Rich. Abel*, Sir *Tho. Aleyn*, *Abr. Scudamore*, *Ralph Halſall*, *George Tirrey*, *Tho. Swallowe*, *Charles Pickerne*, *Arthur Newman*, *Tho. Blithe*, *William Vincent*, *Rich. Whaley*, were called and challenged.

*Thomas Grover*, *Edw. Rolfe*, *Tho. Ufman*, *William Whitcombe*, *Rich. Cheney*, *Tho. Bide*, *Charles Pitfeild*, *John Smith*, *Thomas Morris*, *Tho: Fruen*, *Henry Twyford*, *Samuel Starnell*, were the Jury ſworn.

*Clerk.* Cryer make Proclamation.

*Cryer.* O yes! If any man can inform my Lords the Kings Juſtices, &c.

Clerk. *Tho. Scot* hold up thy hand. You that are ſworn of this Jury you ſhall underſtand that the Priſoner at the Bar ſtands Indicted by the name of *Tho. Scot* late of *Weſtminſter* in the County of *Middleſex*, Gent: *For that he, together with* John Liſle, &c.

[Here the Indictment was read.] Unto which Indictment he hath been arraigned, and thereunto hath pleaded not guilty, and for his Tryal hath put himſelf upon God and the Countrey, which Countrey you are. Now your Charge is to enquire whether, &c.

Mr. *Soll. Gen:* You that are ſworn of this Jury, this Inquiſition for blood; Royal Blood goes on againſt the Priſoner at the Bar, he ſtands Indicted for Compaſſing, Imagining, and Contriving the death of the late King of bleſſed Memory: It is laid to his Charge in the Indictment, That he did aſſemble at *Weſtminſter*, and that he with other perſons uſurped an Authority of ſitting and ſenten-

cing to death his ſaid late Majeſty, and that in conſequence and purſuance of that the King came to his death: The treaſon he ſtands charged with is the Compaſſing and Imagining the Kings death; The other part of the Indictment are but overt acts that do but evidence and prove the Corruption of his heart, if we prove but ſome of theſe overt acts then you muſt find him guilty, our Evidence againſt this Gentleman will be thus: We ſhall call Witneſſes to prove his ſitting in the Court, ſentencing his King, while his King ſtood a Priſoner at the Bar; the Warrant for Execution of the King directed to certain perſons to ſee Execution done accordingly, was under Hands and Seals; and among thoſe Hands and Seals, the Hand and Seal of the Priſoner at the Bar is one, and then we ſhall produce to your Lordſhips Witneſſes to ſhew you with what a hard and impenitent heart this hath been Committed; for he ſo gloried in the Act, That he deſired it might be writ upon his Tombe——

Mr *Nutley*, Mr *Kirke*, Mr *Maſterſon* and Mr *Clark* ſworn.

*Coun.* Mr *Maſterſon*, be pleaſed to tell my Lords and the Jury, if you have ſeen the Priſoner at the Bar ſit in that which they called the *High Court of Juſtice*.

Mr *M.* My Lords and Gentlemen of the Jury, I ſaw the Priſoner at the Bar preſent at the High Court of Juſtice (as the call'd it) for the Tryal of the late King ſome days; that is to ſay, either upon the 22. or 23. days of *Jan.* 1648. but particularly upon the 27th day of that Moneth in the ſaid year, when the Sentence of death was pronounced againſt his late Majeſty. I ſaw the Priſoner at the Bar preſent.

*Coun.* As one of the Judges do you mean?

Mr *Ma.* As one of the Judges ſitting upon the Bench.

Scot. *Do you know whereabouts I ſate?*

Mr *Ma.* I cannot ſatisfie you in that; but I ſaw you ſitting upon one of the Benches.

*Coun.* Mr *Clark* you hear the queſtion, pray anſwer what you know touching it.

Mr *Cl.* My Lords, and you Gentlemen of the Jury, I was preſent in the year 1648. when his late Majeſty ſtood a Priſoner at the Bar in that which they called the *High Court of Juſtice*; and among other perſons there preſent in that buſineſs, I obſerved Mr

*Scot*

*Scot*, the Priſoner at the Bar, to ſit as one of the Judges, and particularly upon the 23 and 27th days of *Jan.* in the ſaid year, upon which laſt day the Court pronounced Judgement upon the late King.

*Coun.* Did he ſtand up as aſſenting to the Sentence?

Mr *Cl.* They all ſtood up to my apprehenſion, I know not particularly whether the Priſoner at the Bar did.

*Coun.* Mr *Kirke*, tell my Lords and the Jury your knowledge in this buſineſs touching the Priſoner at the Bar.

Mr *K.* I was preſent at the Tryals of his late Majeſty ſeveral days, among the reſt of the perſons that ſate in the Court as Judges, I ſaw the Priſoner at the Bar, and particularly upon the day of the Sentence, the 27th of *Jan.* 1648. The Court ſtood up unanimouſly as aſſenting.

*Coun.* Shew him the Warrant for Execution.

*K:* This is his Hand.

*Coun.* Have you ſeen his Hand often?

*K.* Yes Sir, and am well acquainted with it.

*George Farrington* Sworn.

*Coun.* Shew Mr *Farrington* the Warrant; Do you know that to be Mr *Scots* Hand-writing.

Mr *Far.* I did not ſee him write it, but I do verily beleeve it to be his; *I* have often ſeen his Hand-writing.

*Coun.* Mr *Nutley* do you know Mr *Scots* hand-writing? Is that Mr *Scot*'s writing, the Warrant ſhewn him?

Mr *Nutley.* *I* do verily beleeve it is.

*Coun.* Have you been acquainted with the writing of his name.

Mr *N.* I have ſeen him write his name, and do verily beleeve it to be his hand.

*Coun.* Clerk read the Warrant: He read it accordingly.

*Coun.* That which remains of our Evidence, is to prove his boaſting of this vilany; We ſhall deſire you to hear Sir *Theophilus Biddolph*.

Sir *Theo. Biddolph* ſworn.

*Coun.* Pray tell my Lords and the Jury what you have heard the Priſoner ſay touching this buſineſs of putting the King to death.

Sir *Th. Bid.* I did hear him confeſs that he did ſit as on of the Judges of the late King; and that he was ſo far from repenting of the Act, that he did deſire when he dyed, That a Tomb ſtone might

might be laid over him with this Inscription, *Here lyes* Thomas Scot *who adjudged to death the late King.*

*Coun.* Where did he say this?

Sir *T. B.* In the Parliament House.

Coll: *Copley*, Esq; sworn.

*Coun.* Pray Mr *Copley* tell my Lords what you know of this business.

Mr *Cop.* My Lord, I was one of the Secluded Members; when we were called to sit in the House again, the Prisoner at the Bar, Mr *Thomas Scot* (I think it was the last day that we sate) there being some speaking of the horridness of the Fact, he made a long Harrange about that horrid Act; and he said, *He hoped he should never repent of it*, and desired that when he dyed it might be written upon his Tomb-stone, *Here lies* Thomas Scot, *who adjudged to death the late King.*

*Conn.* We have done with our Evidence.

*Court:* Sir *Theophilus Biddolph*, When was it that you heard him speak those words?

Sir *T. B.* To my best remembrance it was in *Richards* Parliament; it was about *January* or *February* was tweive Moneths.

*Coun.* Was not you a Member for the City of *London* in that Parliament?

Sir *T. B.* Yes.

*Coun.* Mr *Copley.* When was it that you heard it?

Mr *Cop.* It was in *April* last.

Mr *Soll. Gen.* It was a settled perswasion of his heart, and he thought it fit to be gloried in.

*The Lord Mayor Elect Sworn.*

*Coun.* Pray my Lord tell my Lords what you know concerning the Prisoner at the Bar.

Lord *M. Elect.* My Lords I was one of those Secluded Members that were returned again a little before the comming in of His Majesty: Upon the last day of our sitting, Mr *Scot* seeing the House must break, said, *Their Heads must be laid to the Block if there were a new Parliament*; *For* said you (looking on Mr *Scot*) *I confess I had a hand in the putting the King to death, and I desire all the World may take notice of it, and I desire when I dye it may be written on my Tombe. I do not repent of any thing I have done; if it were to do I could do it again.*

Mr *Soll. Gen.*

Mr *Soll. Gen.* Do it again! He follows his blows home.

*William Lenthall* Esq; Sworn.

*Coun.* Mr *Lenthall* pray be pleased to tell my Lords and the Jury what you do remember of any discourse of Mr *Tho. Scots* (the Prisoner at the Bar) tending to the glorying in this Act, or any thing in Justification of that Act.

Mr *Lenth.* My Lords, the last day it was the last instant of time, We were resolving of breaking the House, there was some opposition in it, not very much; The general consent of the House was to Dissolve it; *I* must confess at that time *I* did hear Mr *Scot* much justifie that Act of the death of the King (which truly *I* was much offended at) *I* confess to you upon my Oath touching his Speech of the Inscription upon his Tombe, I did not hear that: Justifying the death of the King he made a long Harrange about, and he sate at the upper end of the Gallery; but these words, *Of having it written upon his Tombe, and to have all the world take notice of it*; I do not remember.

*Coun.* My Lords, My *Lord Mayor Elect* omitted something; pray let him speak to it.

*Lo. Ma. Elect.* My Lords, the Conclusion of his Speech ended thus; *Being it is your pleasure to have it so* (the House Dissolved) *I know not how to hinder it; but when that is done I know not where to hide this* hated HEAD *of mine.*

*Coun.* We desire to hear what the Prisoner will say for himself.

Scot. *I have no certainty from the Witnesses that I was there, but in a wandring way, they know not where I sate, nor my posture.*

Mr *Baker* Sworn.

*Coun.* We do not call this Witness as material, for we must insist upon it quite through, that after 12. years time it is not possible a Witness should remember where every particular person sate. Pray hear this Witness.

Mr *Baker.* I do perfectly remember, That Mr *Scot* sate two Rowes above Mr. *Bradshaw* on his left hand in that which they called the *High Court of Justice.*

Scot. *As to the Warrant you speak of I know not what it signifies, I desire to know what the nature of it is.*

*Coun,* The Warrant hath been read, it is not produced against him as a Record; for then it needed not to be proved, but it is produced against him as an evidence in writing under his own hand

that

that he was conſenting to the death of the King.

Scot. *They may very much miſtake my hand; You ſpeak of words that I ſhould utter in Parliament, I do humbly inſiſt upon it, That I am not to anſwer, nor they alledge any thing of that nature: It is a high breach of Priviledge.*

*Coun.* There is no Priviledge of Parliament for Treaſon. Firſt, ſome of the words were ſpoken in *Richards* Parliament, and that you do not own to be a Parliament; then another thing (a known rule in Law) there is no Priviledge of Parliament for Treaſon.

Scot. *I have heard the Rule, but do not ſo well underſtand it, of that ſpoken in* Richards *Parliament; it will be a nice thing for me to diſtinguiſh between that and another Parliament; but thus I think, That Convention of the people ought to have the Priviledge of the Parliament as well as any other, I humbly conceive it was teſtimony ought not to be given to you; Whatever I ſay in Parliament, the Priviledge extends to no more then this, that I may be lawfully ſecured till the Parliament hath been acquainted with it, but not finally concluded till the Parliament have heard it.*

*Lord Ch. Bar.* You are Indicted for *Compaſsing* and *Imagining* the death of the King; *I* would have you underſtand, That in caſe a man ſhould commit an Act of Treaſon, be it in what place ſoever, there is no place of Sanctuary for Treaſon; In caſe of Felony, if a man be Indicted for Felony in the Parliament Houſe, during the time of Parliament, this is not to be tryed in Parliament, but according to the Rule of Common Law; So in caſe of Treaſon, the Houſe of Commons in Parliament doth not try Treaſons: That diſtinction which you make is nothing.

Scot. *I humbly conceive there is ſuch a Priviledge that no man ſhall ever be called to account for any thing ſpoken in Parliament, if he be not called to account by the Houſe before any other Member be ſuffered to ſpeak.*

*Lord. Ch. Bar.* That is, the Houſe will not determine, but that doth not extend to your Caſe, you are not charged here criminally for ſpeaking thoſe words that have been teſtified againſt you, but for Compaſſing and Imagining the Kings death, of which there are other Evidences, and this but an Evidence to prove that.

Scot. *My Lord, I never did ſay theſe words with that aggravation which is put upon them, I have a great deal of hard meaſure, as to ſay,* I hope I ſhall never repent, *I take God to witneſs, I have*

often

*often, because it was ſpoken well of by ſome and ill by others, I have by prayers and tears often ſought the Lord, that if there were iniquity in it he would ſhew it me; I do affirm I did not ſay ſo.*

Mr. *Baker*. My Lord *I* omitted ſomething, which was this; I had occaſion to ſpeak with Mr. *Scot*, whileſt *Richard's* Parliament was ſitting, and among other diſcourſe inſiſting upon ſome things that *Richard* had done, ſaith he, *I have cut off one Tyrants head, and I hope to cut off another.*

Scot. *My Lord this is but a ſingle witneſs.*

Mr *Sol. Gen. I* ſuppoſe he meant *Richard*; for he was a Tyrant:

*Lord Ch. Bar.* Speak on Mr *Scot* whatever you have to ſay.

Scot. *If that be laid aſide as an impertinency I have the leſs to ſay.*

*L. Ch. Bar.* The next thing you have to do is to anſwer to the fact, whether you did it or did it not.

Scot. *I ſay this, Whatever I did, be it more or leſs, I did it by the Command and Authority of a Parliamentary Power, I did ſit as one of the Judges of the King, and that doth juſtifie me whatever the nature of the fact was.*

*Lo. Ch. Bar.* We have had theſe things alledged before us again and again: The Court are clearly ſatisfied in themſelves that this Act could not be done by any Parliamentary power whatſoever. I muſt tell you what hath been delivered, that there is no power on earth that hath any coercive power over the King, neither ſingle Perſons nor a Community, neither the people Collectively, nor Repreſentatively. In the next place, that which you offer to be done as by Authority of Parliament, it was done by a few Members of the Houſe of Commons, there was but 46 there at that time, and of theſe 46 not above 26 that voted it, at that time the Houſe of Lords was ſitting, who had rejected it, and without them there was no Parliament, there was a force upon the Parliament, there was excluded ſeven parts of eight: Suppoſing you were a full Houſe of Commons, and that without exception, there was not Authority enough, and it is known to you (no man better) that there never was a Houſe of Commons before this time, that this foul Act was made for erecting that High Court of Juſtice (as you called it) aſſumed that Authority of making a Law, you cannot pretend to act by Authority of Parliament; and becauſe you would excuſe it, you did it by Authority of Parliament,

whether it were good or no. If a man do that which is unlawful by an unlawful Authority; the aſſuming to do it by that Authority, is an Aggravation, not an Extenuation of the Fact; It was over-ruled, I think my Lords will tell you, That they do not allow of that Authority at all, either to be for Juſtification or Plea.

Scot. *My Lords I humbly pray leave to ſay, that without offence to the Court ( every perſon whereof I honour ) This Court hath not Cognizance to Declare whether it were a Parliament or no.*

*Lo. Ch. Bar.* That was objected too, and we muſt acquaint you, That firſt of all it is no Derogation to Parliaments; That what is a Statute or not a Statute, ſhould be adjudged by the Common Laws. We have often brought it into queſtion, whether ſuch and ſuch a thing was an Act of Parliament or not, any man may pretend to an Authority of Parliament: If 40. men ſhould meet at *Shooters Hill*, as the *Little Convention* did at *Weſtminſter*, and ſay, *We do declare our ſelves a Parliament of England*; becauſe they do ſo, ſhall not this be judged what is a Statute and what not? It is every days practiſe we do judge upon it; the Fact is ſo known to every body, they did aſſume to themſelves a *Royal Authority*; it hath been over-ruled already, it hath been the miſtake of many, the vulgar acceptation of the word Parliament. A Parliament conſiſts of the King, Lords and Commons; it is not the Houſe of Commons alone; and ſo it is not by Authority of Parliament: It is not unleſs it be by that Authority which makes up the Parliament: You cannot give one inſtance, That ever the Houſe of Commons did aſſume the Kings Authority.

Scot. *I can many, where there was nothing but a Houſe of Commons.*

*Court.* When was that?

Scot. *In the* Saxons *time.*

*Court.* You ſay it was in the *Saxons* time, you do not come to any time within 600. years; you ſpeak of thoſe times wherein things were obſcure.

Scot. *I know not but that it might be as lawful for them to make Laws as this late Parliament, being called by the Keepers of the Liberties of* England: *My Lords, I have no ſeditious deſign; but to ſubmit to the providence of God.*

*Court.* This is notorious to every man: This we have already heard and over-ruled.

*L. Finch.*

*L. Finch.* That that I hope is this, That Mr *Scot* will contradict that which he hath ſaid before; that is, That he hopes he ſhould not repent, I hope he doth deſire to repent. Mr *Scot*, for this we muſt over-rule it, as we have done before; there is nothing at all to be pleaded to the Juriſdiction, and this point hath been determined before.

Scot. *The Parliament in former times conſiſted not ſo much of King, Lords and Commons, but King and Parliament. In the beginning of the Parliament in* 1641. *the Biſhops were one of the three Eſtates, if it be not properly to be called a Parliament, a legiſlative Power, though it be not a Parliament it is binding; If two Eſtates may take away the third, if the ſecond do not continue to execute their truſt, he that is in occupancy may have a title to the whole: I do affirm I have a Parliamentary Authority, a legiſlative power to juſtifie me.*

*Lo. Ch. Bar.* Mr *Scot*, what you ſpeak concerning the Lords Spiritual is nothing to your Caſe, be it either one way or other, it was done by an Act of Parliament, with conſent of the King, Lords and Commons, though you will bring it down to make theſe Commons have a legiſlative Power, I told you it was over-ruled before. We have ſuffered you to expatiate into that which was a thing not intended by many of my Lords, that you ſhould have any ſuch power to expatiate into that which is nothing but indeed to make a new Government, which is the higheſt Treaſon next to the Murthering of the King in the world; To ſubvert the Laws, and to make a few of the Commons, nay, if they had been the whole, to make them to have the Legiſlative Power. Mr *Scot* if you have any thing in extenuation of the Fact we ſhall hear you, further we cannot.

*L. Finch:* If you ſpeak to this purpoſe again, for my part I will profeſs my ſelf, I dare not hear further of it; It is ſo poyſonous blaſphemous a doctrine contrary to the Laws, if you go upon this point I ſhall (and I hope my Lords will be of that opinion too) deſire the Jury may be directed.

Scot. *I thought my Lord you would rather be my Councel, it is not my ſingle opinion, I am not alone in the Caſe, therefore I think I may juſtifie my ſelf in it, it was the Judgement of many of the Secluded Members to owne us to be a Parliament.*

*Lord Anneſley:* What you ſaid laſt doth occaſion my riſing.

you ſeem to deliver my opinion, who you know could never agree to what you have alledged; truly I have been heartily ſorry to hear the defence you have made to day, becauſe you know I have had Letters from you of another nature; I was very confident to have heard you an humble Penitent this day inſtead of juſtifying your ſelf: As to that which you ſay of the Secluded Members owning you to be a Parliament; they were ſo far from it, that you know for how many years they lay under ſufferings and obſcurity, becauſe they could not acknowledge that an Authority which was not ſo: You cannot forget the Declaration of both Houſes that was publiſhed upon a Jealouſie that the people had they would change the Government of King, Lords & Commons; It was far from their thoughts, it was called in that Declaration *A black ſcandal caſt upon them*: This Declaration you know was by Order of both Houſes affixed in all Churches of *England* that people might take notice what they held to be the Fundamental Government of this Kingdom, *King, Lords and Commons*: After this for you to ſet up another Government, and under them to act ſuch things that one would think ſhould hardly enter into the heart of any man. You know very well all along they declared themſelves faithfull Subjects to the King, and ſo would have lived and dyed; and you might have had your ſhare of the happineſs of that peace, if you could have had an Inclination to ſubmit to that which both Houſes had reſolved, when you and others could not bring your hearts to ſtoop to your Fellow Subjects, when you could not ſubmit to that equal rule to take your ſhare with them. When Pride carryed ſome ſo high, then was the beginning of your fall and others, and none could expect other than what is now come to paſs, That they ſhould come to that ſhame and ſorrow that this day hath brought upon you: I could have wiſhed to have heard nothing but an humble confeſſion of the fault that hath been cleerly proved, and no Juſtification of it; You have ſworn among others to preſerve the Laws and People of the Kingdom; but you drove away not only the Houſe of Lords, but moſt of the Commons, and then to give the name of a Parliament to the Remainder, this is a great aggravation of your Treaſon. *I* think we of the Secluded Members could not have diſcharged our Duty to God and the Kingdome, if we had not then appeared in Parliament to have diſſolved that Parliament, and ſo by our joynt aſſent

put an end to all your pretences, which if we had not done, we had not ſo ſoon come to our happineſs, nor you to your mileries.

*Lo. Ch. Bar.* The Court hath told you before their opinions in the thing, and no further debate is to be allowed in this, the Juſtification of it doth comprehend Treaſon; We our ſelves are not by Law to allow the hearing of it. If you have nothing to ſay for your ſelf I muſt give direction to the Jury.

Scot. *I humbly crave leave to move the Jury that they bethink themſelves, and conſider of it rather as a ſpecial Verdict then of a definitive one, I think there is cauſe of a ſpecial Verdict.*

*Court.* If there was need of a ſpecial Verdict (We are upon our Oaths) I ſhould give direction to the Jury. What We do, We do upon our Oaths, and muſt anſwer it before God Almighty. The Court hath delivered their opinions before, that in this Caſe the Pretended Authority under which you did derive that Power which you did execute, that it is no Authority, it is void in Law, it is a foundation (if it were true) of ſubverting all Laws, and indeed of all Religion, a Power that you aſſumed to your ſelves of Judging and Condemning your King, that you would countenance ſuch an Authority is a great aggravation of the fault. They are Judges whether you did Imagine or Compaſs the Kings Death, that is all the Jurors have to do. Gentlemen of the Jury———

Scot. *I would know what particular Law I have tranſgreſſed in this thing.*

*Court.* The Law of God and Man. 25 *Edw.* 3.

Scot. *I humbly conceive that reaches not to this Caſe.*

*Court* To ſatisfie you in that, the very words of the Statute are, *If any man do Compaſs or Imagine the Kings Death it is Treaſon*; The Indictment is, That you did Imagine and Compaſs the death of the King, if the Fact be proved againſt you, you are within the Statute.

Scot. *You will not ſay the King ſhall be a Traytor if he ſhall Compaſs the death of the Queen.*

*Court.* The Queen is a Subject.

Scot. *I am not yet convinced.*

*Lo. Ch. Bar.* Gentlemen of the Jury——

Scot. *I do plead and claim that I am within the Compaſs of ſeveral Pardons; and deſire Counſel in that particular, I do come within the*

*Compaſs*

*Compaſs of his Majeſties Pardon.*

*Lo.Ch. Bar.* If you had not gone on to matter of Juſtification, you might have been more heard to this of Pardon; but after a Juſtification then to come for a Pardon, which implies a confeſſion of Guilt, they are contradictory: I muſt tell you we are now upon Point of Law, That Proclamation I doubt not but his *Majeſty* will inviolably make good; but we are not to judge of that, it is nothing to a legal proceeding: You are now in a Court of Law, it is not to be pleaded in a Court of Law; the Kings Pardon in Law muſt be under his Broad Seal: How far you are under that Proclamation, care will be taken, and what is fitting to be done will be done; but it is nothing in the matter of the Charge to this Jury:

Scot. *I deſire Councel touching the Statute of* 25. Edw. 3.

*Court.* You ſhould have done it before you had confeſſed the Fact.

Scot. *I may do it in Arreſt of Judgment.*

*Lo. Ch. Bar.* Mr *Scot*, for that of the Kings Proclamation, if you be within the benefit and compaſs of it, according to his Royal Word and Honour in it, you will have the benefit of it; but it is not a Plea in Law, but it muſt be a pardon under Seal; whatſoever concerns that Proclamation will be conſidered: It is nothing to the matter whereupon the Jury are to go.

*Lord Chief Baron.* Gentlemen of the Jury, you ſee the Priſoner *Thomas Scot*, ſtands Indicted for Compaſſing and Imagining the death of our Dread Soveraign King *Charles* the Firſt of moſt glorious and bleſſed memory; He is Indicted for Compaſſing and Imagining his death, there is the Treaſon; and what is ſet afterwards in this Indictment is onely to manifeſt this Compaſſing and Imagining, becauſe that being in the heart alone without ſome overt Act no body can prove it: There are ſeveral overt Acts laid in the Indictment; one is, A Trayterous conſulting and meeting together how to put the King to death: Then a ſitting upon the King as a Priſoner, being before them about his life and death; The third is Sentencing to death, that which followed is, That he was Murthered: If any of theſe acts ſhould be proved, the Indictment is proved; for the proof, there are ſeveral Witneſſes have fully proved that he did ſit there ſeveral times, particularly upon the 27th of *January*, which was the day of the Sentence:

That

That he did ſit there, all of them agree to that; It is true as to the Circumſtance where he ſate; one Gentleman ſaith he ſate in the ſecond Row, on the left hand of *Bradſhaw*; you well remember it is 12. years ago, how any man upon the view, and after ſo long a diſtance of time ſhould be able to remember in what poſture one man was from the reſt; I think neither you nor *I* can remember: Here is one proved to you that he did ſigne that Warrant for Executing the King; he ſaith, *How can another know his Hand?* You ſee what the Witneſſes ſay, they knew it; a man can prove nothing more of another mans Hand, then that unleſs they ſee it written, there is nothing to put upon you but his words: You ſee what words are aggravated againſt Mr *Scot*; Whereas he ſaith, It is a breach of the Priviledges of Parliament; if it were ſo, it is nothing to this Fact; though another man ſhould break the priviledges of Parliament it is nothing to you; but beſides it is not a breach of the priviledge of Parliament. You have heard the Witneſſes what they have ſaid againſt him. Mr *Lenthall* ſwears that he did ſpeak at large fully in owning that buſineſs of the Kings death; The reſt ſwear poſitively to the ſame effect, & that at ſeveral times; What was that? He gloried in it, defended it, & ſaid, *He could wiſh it were Engraven on his Tombe ſtone*; he hath denyed this that the Witneſſes have proved: That which is left to you is, whether upon all this matter that you have heard, Whether the Priſoner at the Bar is Guilty of Compaſſing and Imagining the Kings death; and ſo go together———After a little Conſultation together, they ſettled in their places again.

*Clerk. Tho. Scot* hold up thy hand. Look upon the Priſoner at the Bar; How ſay you is he Guilty of the Treaſon whereof he ſtands Indicted, or not Guilty?

*Jury.* Guilty.

*Cl* Look to him Keeper.

*Cl.* You ſay the Priſoner is Guilty, *&c.* and ſo you ſay all.

*Jury.* Yes.

*Cl.* Set Mr *Scot* aſide.

*Clerk.* Set *John Jones* and *Gregory Clement* to the Bar.

Which was done accordingly.

Thereupon the ſaid *Gregory Clement* preferred his Petition to the Court. Indictment read againſt them both.

*Lo. Ch. Bar.* If you do confeſs your Offence, your Petition will be read.

*Clement*

Clem. *I do my Lord.*

*Lo. Ch. B.* Mr *Clement*, if you do confeſs (that you may underſtand it) you muſt when you are called, and when the Jury are to be charged. You muſt ſay (if you will have it go by way of Confeſſion) That you Wave your former Plea and confeſs the Fact.

*Clerk. Gregory Clement*, you have been Indicted of High Treaſon, for Compaſſing and Imagining the death of his late Majeſty, and you have pleaded not Guilty: Are you contented to wave that Plea and confeſs it?

*Clem. I do confeſs my ſelf to be Guilty my Lord.*

*Clerk.* Set him aſide.

*Clerk. John Jones* hold up thy hand. Theſe men that were laſt called, *&c.* if you will Challenge all or any of them, you muſt Challenge them when they come to the Book, and before they are ſworn.

Jones. *I confeſs I ſate among them ſome days, but not maliciouſly contrived the death of the King.*

*Coun.* He is troubled at the Form, he confeſſeth the Matter, That he was there ſitting in the High Court of Juſtice. If he will not confeſs it he knows we can prove his Hand and Seal to that bloody Warrant. He is troubled that he is ſaid to have Trayterouſly and Maliciouſly Contrived the Kings death: He that doth theſe Acts towards it, is by Law reſponſible as to the Malice.

*Jury Sworn.*

Sir *Tho. Allen*, Sir *Henry Wroth*, Sir *Jer. Whitchcott*, *James Hawley*, *Henry Mildmay*, *Chriſt. Abdy*, *Nich. Raynton*, *Rich. Cheney*, *Tho. Bide*, *Charles Pitfeild*, *Abraham Scudamore*, *Charls Pickerne*. In all 12.

*Cl.* Cryer make Proclamation.

*Cryer.* If any man can inform, *&c.*

*Cl. John Jones* hold up thy hand. Look upon the Priſoner, *&c.*

Mr *Sol. Gen.* My Lords and Gentlemen of the Jury, I muſt open to you as to other Juries, that the ſhort Point of this long Indictment is but this, That the Priſoner at the Bar did Imagine and Compaſs the death of the King, which is your Iſſue to Try. We ſhall prove it by thoſe overt acts which the Law doth require. To prove the Sitting, Sentencing and Signing the Warrant for Execution, by the Priſoner at the Bar.

*Coun.* Call Mr *Clark* and Mr *Carr*, and *Holl. Simſon*, who were ſworn.

Mr

Mr. *Symſon* did you ſee the Priſoner at the Bar ſitting in that which they Called the High Court of Juſtice:

*Sym.* I did ſee Mr *Jones* ſit divers times both there and in the Painted Chamber.

Jones. *I do confeſs I ſate divers times.*

*Coun.* Did he ſit the day of Sentence?

*Sym.* I cannot ſay it.

*Coun.* Mr *Clark* you hear the queſtion; Pray anſwer my Lord.

*Clark.* My Lords and Gentlemen of the Jury, I was there the 27th of *Jan.* 1648. I ſaw Coll. *Jones* there ſeveral days before; but I did not ſee him that day; his name was called, but I do not know whether he was preſent.

*Coun,* Mr *Carr* did you ſee him ſit on the 27th day, which was the day of Sentence?

*Carr.* My Lords he anſwered to his name ſome days, I am not able to tell what day.

Mr *Nutley* Sworn.

*Coun.* Can you tell whether the Priſoner at the Bar was preſent in that which they called the High Court of Juſtice?

*Nut.* The Priſoner at the Bar was ſeveral times in the Court which was called the High Court of Juſtice; truly I cannot ſay whether he was there the 27th day, the day of the Sentence.

The Warrant for Summoning that Court being ſhewed.

*Coun.* Is that Mr *Jones* Hand, (the Priſoner at the Bar) ſet to that warrant?

*Nut.* I have been acquainted with his Hand, I do beleeve it is.

The Warrant for Execution was alſo ſhewed.

*Coun.* Is that the ſame Hand-writing?

*Nut.* Yes I beleeve it is; he hath written ſeveral Letters to me.

Mr *Hartlib* Sworn.

*Coun.* Mr *Hartlib* do you know Mr *Jones* Hand?

*Har.* I never did ſee him write; but I have ſeen ſeveral Letters out of *Ireland*, and other Papers which have been ſuppoſed to be his Hand-writing: This ſeems to be like that which was reputed to be his Hand.

*Coun.* Mr *Clark* do you know Mr *Jones* his Hand-writing?

*Cl.* I have ſeen ſeveral Letters of Coll. *Jones*, and theſe are like his Hand-writing; I do beleeve they are his Hand-writing.

Mr *Jones* looks upon them both, and confeſſes they are like his hand-writing.

*Coun.* We have given our Evidence: What do you ſay for your ſelf before Charge be given to the Jury?

Jones. *I have little to ſay, your Lordſhips have already heard what is to be ſaid in this Caſe; I have nothing to ſay to the point; I am not fit to plead any thing, eſpecially in matter of Law: I muſt wholly put my ſelf upon the Lord, and this Honourable Court and Jury.*

Lo. *Ch. Bar:* Gentlemen of the Jury, here is this Priſoner *John Jones* ſtands Indicted: for that he with others did Compaſs and Imagine the Kings death, that is the ſubſtance of the Indictment; The Indictment ſets forth ſeveral Acts, each proving the Compaſſing and Imagining the Kings death: One of them is, that he did conſult and meet together, and propound how the King ſhould be put to death; The ſecond is, they did aſſume a power to Judge the King; The third is, that they did actually ſit upon him; And the laſt of them is, that they ſentenced the King, and afterwards the King was murthered: The whole ſubſtance is, whether he did Compaſs and Imagine the Kings death. If any one of theſe particulars that are alledged for the Overt acts be proved, you are to find the Indictment. He hath confeſſed very ingenuouſly, that he did ſit upon the King, that he did ſit in that Court, and ſo there is an overt act proved, if nothing elſe you ought to find him guilty of this Treaſon. There is further Evidence (though not any Evidence of his ſitting the laſt day of the Sentence) you have had three comparing ſimilitudes of hands to prove that he did ſign that Sentence, that horrid Inſtrument whereby the King was ordered to be put to death; one of them having received Letters from *Ireland*, and others acquainted with his hand, ſay that it is like his hand; he hath ſo confeſſed the likeneſs of his hand, but he ſaith he doth not remember he ſigned it. As to you of the Jury there is no more to be conſidered, if any one of the acts do appear true to you, that is ſufficient to finde him guilty (though he were not guilty of all) but that he did Compaſs and Imagine the Kings death is cleer, in ſitting, and ſigning the Warrant; for the other, whether you ſhall find that he did ſentence the King, that muſt be left to you. Whatſoever it is, ſtill it is the ſame, if any one be proved, you ought to find him guilty of the Indictment, which is the Compaſſing and Imagining the Kings death. I think you need not ſtir from the Bar; for he hath confeſſed it.

The

The Jury went together, and after a little Conſultation returned to their places.

*Clerk.* Are you agreed of your Verdict.

*Jury.* Yes.

*Cl.* Who ſhall ſay for you?

*Jury.* Our Foreman.

Cl. *John Jones* hold up thy hand. Look upon the Priſoner at the Bar. How ſay ye is he guilty, *&c.*

*Foreman.* Guilty.

*Cl.* Look to him Keeper.

*Cl.* You ſay the Priſoner at the Bar is guilty, *&c.* and ſo you ſay all.

*Jury.* Yes:

*Cl.* Set all that have been tryed this day to the Bar.

Lord *Ch. Bar.* Mr *Scot* I muſt ſpeak a word to you; you made mention of the Kings Proclamation for pardon, and you did deſire the benefit of it. As I told you before, ſo now again, That it was not proper for us upon that Proclamation to give any allowance by way of Plea, becauſe the Pardon ought to be under the Broad Seal, but God forbid but juſt and due Conſideration ſhould be had of it with honour, ſo far as you are comprehended within it: Though Judgement ſhall paſs, no Warrant for Execution ſhall go out againſt you, till conſideration be had how far you are within the Compaſs of that Proclamation; and the like to you Mr *Scroop.*

*Clerk. Adrian Scroop,* Hold up thy hand. Thou haſt been Indicted of High Treaſon, and haſt thereof been found guilty. What canſt thou ſay for thy ſelf why Judgement ſhould not paſs for thee to dye according to Law?

Scroop. *I do humbly ſubmit to his Majeſties mercy.*

Cl. *John Carew,* Hold up thy hand. Thou art in the like Condition with the former, what canſt thou ſay, *&c.*

Carew. *I commit my Cauſe unto the Lord.*

Cl. *Thomas Scot,* Hold up thy hand, thou art in the like Condition with the former, what canſt thou ſay, *&c.*

Scot. *I ſhall onely ſay, I do onely caſt my ſelf upon his Majeſty and pray mercy.*

Cl. *John Jones,* Hold up thy hand, thou art in the like Condition with the former, what haſt thou to ſay, *&c.*

Jones: *I pray his Majesties Clemency.*

*Cl. Gregory Clement* hold up thy hand; Thou standest Indicted of High Treason; and thereunto hast pleaded Guilty; What canst thou say, *&c.*

Clem. *I pray mercy from the King.*

*Lo. Ch. Bar:* You that are Prisoners at the Bar: You see the Sentence of death is now to pass against you; and for ought you know, or we know yet, may be nearer then you are aware: How soon it will be executed we know not; when you have reflected upon your own consciences, many of you could not chuse but look there and see, as in a glass, the foulness of this horrid Offence: It is the *Murther of our most gracious Soveraign King* Charles *the First of blessed memory*; a Prince whom we (such of us as had the honour personally to attend him) knew, was of such parts and vertues, if he had been a private man more could not have been desired; truly what he did as a King, his Clemency; how it appeared at first in this Princes time: If you look what Peace and Prosperity we enjoyed in his days, we will not find it in other Kings times; You had not a Noble man put to death save one, and that for an Offence which must not be named: A Prince that had granted so much: You may remember what was granted before the beginning of these Wars: Grievances complained of, Star-Chamber, High Commission Court; Ship-money; The *Claim* of Stannery, *&c.* All these were taken away; What Concessions he made after in the *Isle of Wight*; how much he wooed and courted the people for Peace. I urge this unto you only that you would lay it to your hearts, that you would consider what it is to *Kill a King*, and to kill such a King. If any of you shall say, That we had no hand in the actual Murther of the King, remember that they that brought him to the Bar, were all one as if they had brought him to the Block, as St. *Paul* confessed (though he held but the Clothes) he killed the Martyr *Stephen.* You are shortly to appear before Gods Tribunal, and I beseech God Almighty that he will give you, and us all, those hearts, that we may look into our selves; No figge leaves will serve the turn; whatsoever you have said now as Prisoners, or allowed to say for your own preservation in point of Fact, *Notwithstanding* it will not serve before God Almighty: All things are naked before him, Lay it to your hearts: God Almighty, though you have committed these foul-

foul and horrid ſins; yet he can pardon you, as he pardoned that murther of *Dauid*: I ſpeak it to you, that you may lay it to your hearts; I am heartily ſorry in reſpect you are Perſons of great Civility, and (thoſe that I know) of very good parts; and this I muſt ſay, That you will conſider with your ſelves, if any of you have been led away, though it were with his own conſcience; if any of you did it as you conceived in conſcience, remember that our Saviour ſaith, *The time ſhall come when they will perſecute you and kill you, and think they do God good ſervice*; I have the Judgment of Charity, poſſibly ſome of you did it in this kind, and this is leſs then doing it wilfully; others might do it by a miſ guided Conſcience; there is a ſpiritual pride, men may over-run themſelves by their own holineſs, and they may go by pretended Revelations: Men may ſay I have prayed about ſuch a thing, I do not ſpeak it with reproach to any; If a man that ſhould commit a Robbery or Murther, meerly becauſe he will, and ſhould come and ſay I have prayed againſt it, and cannot underſtand it to be a ſin, as one in *Shropſhire* did, and yet notwithſtanding, killed his own Father and Mother; try your own ſpirits, you muſt not think that every Fancy and Imagination is conſcience; Men may have a ſtrange fancy and preſumption, and that they may call conſcience: Take heed, there is a ſpiritual pride, the Devil doth many times appear like an Angel of light, do not reſt upon that ſelf-confidence: Examine your hearts, conſider the Fact by the word of God; That is the rule, the Law is to be applyed to it; *Eccl.* 8. *Where the word of a King is, there is power; and who can ſay unto him, What doſt thou*; that is to ſhew the power of Kings in Scripture: Remember withal that of *David* in *Pſalm* 51. that penitential *Pſalm*, when he had committed that horrid ſin againſt *Uriah*; remember what he ſaid being a King; *Tibi ſoli peccavi, Againſt thee only have I ſinned*; Truly it being in ſuch a Caſe, I ſpeak it as before God Almighty, according to my duty and conſcience; I wiſh moſt heartily as to your Perſons: I pray God to give you that grace that you may ſeriouſly conſider it and lay it to heart, and to have mercy upon you, and to forgive you; And this is all that I have to ſay; and now not I, but the Sentence of the Law, the Judgement which I have to give againſt you is this, *You Priſoners at the Bar, the Judgement of the Court is, and the Court doth award, that you be led back*, &c: And the Lord have mercy on your ſouls.

*Clerk.*

*Clerk.* Cryer make Proclamation.

*Cryer.* O Yes, *&c.* All manner of Perſons, *&c.* Jurors and Witneſſes to appear to morrow morning at ſeven of the Clock at this place; So *God ſave His Majeſty.*

*Seſsions-Houſe Old-Bayly*, Octo. 14. 1660.
*The Court being Aſſembled, Proclamation was made.*

*Cl. of the Court.* Set *Cook*, *Peters*, *Hacker* and *Axtel*, to the Bar: They being brought the Keeper was afterwards ordered to take back all except Mr *Cook*.

*Cl. John Cook* hold up thy hand, *&c.*

*Jury.* Sir *J. Whitchcott*, *James Hawley*, *Jo. Nichol* of *Henden*, *Tho. Nichol*. *F. Thorn*, *Edw. Wilford*, *Wil. Gumbleton*, *Jo. Shelbury*, *Tho. Jenney*, *Tho. Willet*, Sir *H. Wroth*, *Rich. Cheney*, of the Jury called and ſworn.

Mr. Cook. *May it pleaſe your Lordſhip, I do not know any of theſe Perſons; I beſeech your Lordſhip that in regard the ſafety of my life depends upon the Indifferency of theſe perſons, that your Lordſhip may demand of the Sheriff to know whether he hath not heard them ſay, or any of them, that they are preingaged, I hope they are not, and thereupon I have not challenged any.*

*Lo Ch. Bar.* Sir, The Officer reads their names out of his Papers, I ſuppoſe he doth not pick and chuſe them; I would not have him, and I am ſure he will not do you any wrong in that particular.

Cook. *My Lord I am ſatisfied.*

*Cl.* If any man can inform, *&c.*

*Cl. J. Cook* hold up thy hand.

Cook. *My Lords, I deſire Pen, Ink and Paper.*

*Lo. Ch. Bar.* Give it him.

*Cl. J. C.* hold up thy hand. You that are ſworn look upon the Priſoner: You ſhall underſtand, *&c.* (Here the Indictment was read as before.)

Mr *Soll. Gen.* May it pleaſe your Lordſhips, and you Gentlemen that are ſworn of this Jury, the Priſoner at the Bar ſtands Indicted for High Treaſon for Compaſſing and Imagining the Death of the Late King of Bleſſed Memory: The Indictment ſets forth, That he, together with others, did aſſemble at *Weſtminſter*

*minſter* Hall, and ſets forth many other particulars of ſitting, ſentencing, and of the Conſequent Death and Murther of the King. The matter and charge of the Indictment is for Compaſſing and Imagining the Death of the King, the reſt of the Circumſtances of the Indictment are but alledged as overt acts to prove the Imagination, which only is the Treaſon. This Priſoner at the Bar ſtands here Indicted for this Treaſon of Compaſſing and Imagining the late Kings Death. My Lord, his part and portion in this matter will be different from thoſe that have been tryed before you, they ſate as Judges to ſentence the King, and he, my Lord, ſtood as a wicked Inſtrument of that matter at the Bar, and there he doth with his own hand ſubſcribe and exhibite a charge of High Treaſon, a ſcandalous Libel againſt our Soveraign to that pretended Court to be read againſt him as an accuſation in the name of all the people of *England*; when he had done that, he makes large diſcourſes and aggravations to prove (if it had been poſſible) innocency it ſelf to be Treaſon: When he had done, he would not ſuffer his Majeſty to ſpeak in his defence, but ſtill took him up, and ſaid, that he did ſpin out delays, and deſired that the Charge might be taken as if he had confeſſed it: He preſſed the Court that Judgement might be given againſt the King; he was the man that did demand that wicked Judgement before the Court pronounced it; and he was the man that did againſt his own Conſcience, after he had acknowledged that he was a wiſe and gracious King, yet ſays he, *That he muſt dye and Monarchy with him*, there in truth was the Treaſon, and the cauſe of that fatal blow that fell upon the King: This was his part to carry on; how he did it as a wicked Counſellour we ſhall prove to you, and the wages and reward of the Iniquity that he did receive.

*James Nutley* ſworn:

*Councel.* Pray tell the Circumſtances of the Priſoners Proceedings at *Weſtminſter* Hall, when he did exhibite a Charge againſt the King.

Mr *Nutley*. My Lords, the firſt day of bringing his Majeſty to his Tryal, was *Saturday, Jan.* 20. 1648. Before they ſate in publick, they that were of the Committee of that which they called the *High Court of Juſtice*, did meet in the Painted Chamber, which was in the forenoon of that day. Being there I did obſerve that there was one *Price* a Scrivener that was writing of a Charge; I ſtood at a great diſtance and ſaw him write, and I ſaw this Gentle-

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man the Priſoner at the Bar neer thereabouts where it was writing, I think it was at the Court of Wards. This Charge afterwards (a Parchment Writing) I did ſee in the hands of this Gentleman the Priſoner at the Bar. A very little after that they called their names they did adjourn from the Painted Chamber into *Weſtminſter* Hall, the great Hall. The Method that they obſerved, the firſt thing was to call the Commiſſioners by name in the Act; the pretended Act for trying the King was read, that is, when the Court was ſate, the Commiſſioners were called by names, and as I remember they ſtood up as their names were called: The next thing was reading the Act for the trying of his late Majeſty. After that was read, then this Gentleman the Priſoner at the Bar preſented the Parchment Writing, which was called the Impeachment or Charge againſt his *Majeſty*; Mr *Bradſhaw* was then Preſident of that Court, and ſo called Lord Preſident, he commanded that the Priſoner ſhould be ſent for, ſaying, Serjeant *Dendy ſend for your Priſoner*; thereupon the King was brought up as a Priſoner, and put within a Bar: And when the Court was ſilenced and ſetled, this Gentleman the Priſoner at the Bar did deliver the Charge the Impeachment to the Court, and it was read: The King was demanded to plead to it preſently. Here I ſhould firſt tell you, that upon the Kings firſt coming in there was a kind of a Speech made by Mr *Bradſhaw* to the King in this manner, I think I ſhall repeat the very words, Charles Stuart *King of* England, *the Commons of* England *aſſembled in Parliament taking notice of the effuſion of blood in the Land, which is fixed on you as the Author of it, and whereof you are guilty, have reſolved to bring you to tryal and Judgment, and for this cauſe this Tribunal is erected:* There was little reverence given to his Majeſty then, which I was troubled at; he added this further, *that there was a charge to be exhibited againſt him by the Sollicitor General*; I think this *Gentleman* was ſo called at that time, and he called to him to exhibit the Charge; and this Gentleman, the Priſoner at the Bar did deliver an Impeachment, a Parchment writing, which was called a Charge againſt the King at that time, which was received and read againſt him.

*Coun.* Did you ever ſee the Charge (which was now ſhewn to Mr *Nutley.*)

Mr *Nut.* My Lords I do beleeve that this is the very Charge, I am confident it is the ſame writing; I have often ſeen him write, and by the Character of his hand this is the ſame.

C.

*Councel.* Go on with your ſtorie.

*Mr. Nutly.* My Lords immediately upon the delivery of this Charge of Impeachment which was delivered in the Kings preſence, after it was read the King was demanded to give an anſwer to it. His Majeſtie deſired to ſpeak ſome thing before he did anſwer to the Pretended Impeachment (for ſo his Majeſty was pleaſed to call it) He did uſe words to this purpoſe, ſaith he, I do wonder for what cauſe you do convene me here before you: he looked about him, ſaith he, I ſee no Lords here, where are the Lords? upon this Mr. *Bradſhaw* the Preſident, for ſo he was called, did interrupt his Majeſty, and told him, *Sir*, ſaith he, you muſt attend the buſineſs of the Court; to that purpoſe you are brought hither, and you muſt give a poſitive anſwer to the Charge: ſaith the King, you will hear me to ſpeak, I have ſomething to ſay before I anſwer: after much adoe, he was permitted to go on in the diſcourſe that he was in, ſo far as they pleaſed. His Majeſtie ſaid I was in the Iſle of *Wight*, and there I was treated with by divers honorable perſons, Lords and Commons, a treaty of peace between me and my people, the treaty was ſo far proceeded in that it was near a perfection: truly (ſaith he) I muſt needs ſay, they treated with me honorably, and uprightly; and when the buſineſs was come almoſt to an end, then (ſaith he) was I hurried away from them hither I know not by what Authority now I deſire to know by what Authority I was called to this place: that is the firſt queſtion I ſhall ask you before I anſwer the charge. It was told him by Mr. *Bradſhaw* the Preſident, that the Authority that called him hither was a lawful Authority: he asked him what Authority it was, the ſecond time: it was anſwered him by the Preſident, that it was the Authority of the Commons of *England* aſſembled in Parliament, which he affirmed then to be the Supream Authority of this Nation: the King ſaid, I do not acknowledge its Authority: Authority if taken in the beſt ſence, it muſt be of neceſſity underſtood to be lawful; therefore I cannot aſſent to that: I am under a Power, but not under an Authority: and there are manie unlawful Powers: a Power that is on the high way, I think I am under a Power, but not under an Authority: you cannot Judge me by the Lawes of the Land, nor the meaneſt Subject. I wonder you will take the boldneſs to impeach me your Lawfull King. To this purpoſe His *Majeſtie* was pleaſed to expreſs himſelf at that time, with more words to that purpoſe. The King went on to further diſcourſe concerning the Ju-

risdiction of the Court. *Bradshaw* the President was pleased to interrupt him, and told him several times, that he trifled out the Courts time, and they ought not to indure to have their Jurisdiction so much as questioned.

*Court.* Pray go on.

*Mr. Nutly.* This Gentleman at the Bar, I did hear him demand the Kings answer several times: a positive answer was required of the King: the King often desired to be heard, and he interrupted him again and again, several times; and at length it was pray'd that the charge that was exhibited against him might be taken *pro Confesso.*

*Court.* By whom?

*Nutly.* By the Prisoner at the Bar, if so be that he would not answer. This my Lord is the substance of what I have to say against him.

*Councel.* Mr. *Nutly*, pray, what discourse have you had at anie time, with the Prisoner at the Bar, concerning this impeachment?

*Nutly.* Trulie my *Lord*, I knew the Gentleman well, I was well acquainted with him, and for the satisfaction of my own conscience (for I was verie tender in the business, and sorrie he was ingaged in it) I went to him and did desire him to desist; I had discourse with him (for I was then a young Student in the Temple, and had a little knowledge in the *Lawes*:) I desired him to consider the dangerous consequences of such a proceeding; I may say I did it with tears in my eyes, for I had a very good respect to the Gentleman for his Profession sake, being learned therein: truly my *Lord* he did answer me thus, *I acknowledge it is a very base business: but they put it upon me*, I *cannot avoid it, you see they put it upon me.* I had some discourse with him concerning the oath of Allegiance: truly he was satisfied that this oath was against the business in question; I saw he was troubled at it.

*Councel.* Can ye speak of the manner of calling for Judgement against the King?

*Nutly.* That (I have already answered to it) was several times done; the *King* was brought several times to the Bar, and at every time he was brought, he was pressed to answer whether Guilty, or not guilty.

*Court.* By whom?

*Nutly.* By the Sollicitor, then, the Prisoner now at the Bar. My Lord, I remember his Majesty was pleased, when he saw he could not be

be heard to the diſcourſe that he did intend to make of the whole buſineſſe; ſaith the King, if you will needs preſſe me to an anſwer, I muſt demur to your Juriſdiction: my Lord, the anſwer that was given to that was this, Mr. *Bradſhaw* there then Preſident did ſay, Sir, ſaith he, if you demur to the Juriſdiction of this Court, I muſt let you know that the Court doth over rule your demurrer; this was ſaid my Lord, and Judgement was preſſed very often.

*Court*, By whom?

*Nutly*, By the priſoner at the Bar.

*Cook*, My Lord, may I aske him a queſtion?

*Court*, Yes.

*Cook*, The firk queſtion is, whether the Parchment was delivered by me unto the Court, or broughe into the Court by Mr. *Broughton*, the Clerk.

Mr *Nutly*, I do encline to believe (my Lord) That it was brought into the Court, and delivered by ſome hand or other, to the Priſoner at the Bar, I do believe it was, for I doe remember it was written by one *Price*; I was told that was his name: that may be true, I believe it was brought into the Court and delivered to the Priſoner now at the Bar.

*Council*, But did he exhibit it?

*Nutly*, Yes my Lords.

*Cook*, Did you ſee me ſet my hand to that Parchment?

*Nutly*, No my Lords, but I believe it to be his hand.

*Cook*, Another Q. whether Mr. *Nutly* did hear me ſay concerning the opinions of thoſe Gentlemen, what they intended to doe in that buſineſſe?

*Nut.* My Lords, I doe remember that I had often conference with the Gentleman at the Bar.

I deſired him to deſiſt from the buſineſs, conſidering the dangerous conſequences of it: truly my Lord, I doe well remember that he did ſay he did hope they did not intend to take away the Kings life: ſaid I, if they go about any ſuch thing, doe you uſe your utmoſt endeavour to preſerve his life: ſaith he, I did labour to that purpoſe, but they tell me, they onely intend to bring him to ſubmit to the Parliament.

*Cook*, It is ſaid that I demanded Judgement of his life, Mr. *Nutly*, I demand of you, whether I uſed the words of Judgement againſt his life, but onely I demanded their Judgement.

*Nutly.* My Lords, for that, I cannot remember poſſibly to a ſyllable, but Judgement was demanded.

*Court*, By whom?

*N.* By this perſon.

*Cook*, I ſaid the judgement of the Court, not againſt him, I meant judgement for his acquitall.

*Court*, Did you ever hear him deſire the Court that the Charge might be taken *pro confeſſo*?

*Nutly*, That I have ſaid my Lord, it was urged by the Priſoner at the Bar againſt his Majeſtie, That if he would not plead to the Charge, that then the matter charged in it might be taken *pro confeſſo*. But my Lord, if you pleaſe to give me leave to adde this one word more, my Lord, I did hear him ſay at that time; he ſhewed me a paper that containedan order of the Court that did direct the very words that he ſhould uſe when he came to deliver the Charge, whether thoſe words were in the order, I doe not know.

*Cook*, Whether I was not directed by thoſe Gentlemen the very words I ſhould ſpeak?

*Court*, We are ſatisfied in that; he ſaith by an order, that you ſhewed him, you were ſo directed. If you have any thing more, ask it him.

Mr. *Farrington* ſworn.

Mr. *Sol. Gen.* Pray tell my Lords and the Jury, what was the carriage of the Priſoner at the Bar, at *Weſtminſter*, at the place they called the High Court of Juſtice.

*Farrington*, My Lord, I was preſent about the 20th of *January* 1648. at that which they called the High Court of Juſtice, and Mr. *Bradſhaw* ſat then as Preſident, ſo much as I remember concerning the Priſoner at the Bar, I ſhall acquaint your Lordſhip. This Gentleman at the Bar, after the reading of the Commiſſion, and directions by the Preſident, to bring his Majeſtie (the priſoner he called him) to the Bar; the King being brought, after ſilence made, and ſome Speeches made by the Preſident, this Gentleman the Priſoner at the Bar having then a Parchment in his hand, the ſubſtance of it was for levying War againſt the Kingdome, he prayed that it might be read and accepted as a Charge in behalf of the good people of *England*. It was accordingly read, and afterwards being demanded

manded to answer; after his Majesty having given several reasons as to the Jurisdiction of the Court, four dayes, every day the Prisoner at the Bar demanded the judgement of the Court. And if his Majesty would not answer to the charge, it might be taken *pro confesso*.

*Councel.* Do you know his hand if you see it?

*Farrington.* I have not seen his hand a long time, then the Impeachment was shewn to the witness.

*Farrington.* Truly Sir, this is like his hand.

*Councel.* Do you believe it?

*Farrington.* It is very like it, I do not know positively.

*Councel.* Did you hear the words *pro confesso*?

*Farrington.* Yes my Lord, several times after the first day.

*Councel.* Did he interrupt the King in his discourse, as to say these words, that the charge might be taken *pro confesso*?

*Farrington.* I do remember one day there was some interruption between the King and him, the King laying his Cane upon his shoulder desiring him to forbear.

*Cook.* You cannot say that I interrupted his Majesty.

*Farrington.* I remember that the King laid his Cane upon your shoulders.

*Cook.* Whether did *I* the first, or the last day demand judgement, or that any thing might be taken *pro confesso*?

*Farrington.* The first day? no, but after the first day he did several dayes, you did the last day.

*Griffith Bodurdo* Esq; Sworn.

*Councel.* Sir, you have heard the question, give an accompt to my Lords, and Gentlemen of the Jury, of the carriage of the Prisoner at the Bar towards his Majesty during the time of the Tryal.

Mr. *Bod.* My Lord, I was all the time that the King was brought there before the Court, as a Prisoner, *I* was present all the day, having a conveniency out of My house into a Gallery, that was some part of it over that Court. I do remember that the Prisoner at the Bar (whom I never saw before that time) did exhibit a charge

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the firſt day againſt the Priſoner at the Bar, which was the King in theſe very terms, *The Priſoner at the Bar:* the charge I heard it read, then; I have not ſeen it ſince; the ſubſtance was this. That for levying war againſt the Parliament and People of *England*, and namely at ſuch and ſuch a place killing of the people of *England*, (I think *Naſeby*, and *Keinton* field was named in it, and divers other places were named in the Charge) and the Concluſion was that he had done thoſe things as a Tyrant, Traitor, Murtherer, and a publick and implacable Enemy of the *Commonwealth*. But this Priſoner at the Bar did exhibit the Charge, and the King did then, as you have heard, he did plead to the Juriſdiction of the Court. The King vvould fain have been heard, but I think they did adjourn for that time. The next day he pleaded the ſame thing, I remember the Anſvver that vvas ſeveral times given; tvvice given by *Bradſhaw* to the King: thus, *that the Court did aſſert their own Juriſdiction*. The ſecond and third day, I do not remember any day after the firſt, but that the priſoner at the Bar did demand judgement for the Kings not pleading, and did ſeveral times make complaints to the Court of the Kings delayes; that he intended delayes and nothing elſe.

*Cook.* Pray my Lord, one Queſtion, vvhether, my Lord, before he heard me ſpeak of demanding judgement againſt the King vvhether he did not hear Mr. *Bradſhaw* ſeveral times ſay that the Court ovvned their Authority, and that the matter vvould be taken *pro confeſſo?*

Mr. *Bodurdo.* I did hear the Priſoner at the Bar deſire of the Court, that it might be ſo; and I heard the Priſoner tell the King that it muſt be ſo.

*Joſeph Herne* Svvorn.

*Councel. Mr. Herne*, tell my Lords, vvhat you knovv of the Priſoners carriage at the High Court of *Juſtice*, as they called it.

*Mr. Herne.* Upon Saturday the 20 of *January* 1648. it vvas the firſt day His *Majeſtie* vvas convened before them.

I could not come near the Court; onely I ſavv him at a diſtance I heard nothing, but the acclamations of the people crying out, *God ſave your Majeſty*: what was done in the Court I know nothing of. On *Munday* I was there, & had a conveniency to ſee & hear vvhat vvas there acted; and ſo His Majeſtie being come to the

Seat

Seat appointed for him, the Priſoner at the Bar being called upon by the then Preſident *Bradſh.* he demanded of him what he had to ask of the Court, He was then talking with *Doriſlaus*, and ſeemed not to mind the buſineſſe of the Court. His Majeſtie ſitting near, takes his ſtick and thruſts the Priſoner at the Bar upon his ſhoulder; and the Priſoner looking back with a great deal of indignation turned about. I did hear *Bradſhaw* ſpeaking to him in theſe words, Mr. *Sol.* have you any thing to demand of the Court? whereupon the Priſoner at the Bar did uſe theſe or the like words: May it pleaſe your Lordſhips. I have formerly in the name of the Commons aſſembled in Parliament and the good people of *England* exhibited a Charge of High Treaſon and other high crimes againſt *Charles Stuart* the Priſoner at the Bar, flinging his head back in this manner to him. He had there further to require of the Court that he might be demanded to make poſitive anſwer, by confeſſion or denial; if not that the Court would take it *pro confeſſo*, and proceed according to Juſtice: this was on the firſt day I was in the Court. The Preſident *Bradſhaw* told His Majeſtie, that he heard what was craved in the name of the Commons aſſembled in Parliament and the good people of *England* againſt him by the now Priſoner at the Bar. The King ſtood up, but *Bradſhaw* prevented him in what he had to ſay, telling of him that the Court had given him time to that day to know when he would plead to the Charge. His Majeſtie proceeded to object againſt the Juriſdiction, and ſaid he did demur to the Juriſdiction of the Court; upon which the Preſident anſwered him, If you do demur to the Juriſdiction of the Court, you muſt know that the Court hath overruled your demurrer, and you muſt plead to your Charge, guilty or not guilty: upon that the King asked their authority, and deſired he might give reaſons againſt it; he was denyed it by the Preſident, the Preſident at laſt was content to tell him, that though he was not ſatisfied with their authority, they were, and he muſt: but to ſatisfie him, he told him in ſhort, they ſat there by the ſupream authority of the Nation, the Commons aſſembled in Parliament, by whom his Anceſtors ever were, and to whom he was accomptable; then the King ſtood up, by your favour ſhew me one Preſident, *Bradſhaw* ſits down in an angry manner, Sir, ſaith he, we ſit not here to anſwer your Queſtions, Plead to your Charge guilty or not guilty: Clerk do your duty; whereupon *Broughton* ſtood up and asked what he had to ſay, whether guilty or not guilty: and Preſident *Bradſhaw* ſaid

that

the first day against the Prisoner at the Bar, which was the King in these very terms, *The Prisoner at the Bar:* the charge I heard it read, then; I have not seen it since; the substance was this. That for levying war against the Parliament and People of *England*, and namely at such and such a place killing of the people of *England*, (I think *Naseby*, and *Keinton* field was named in it, and divers other places were named in the Charge) and the Conclusion was that he had done those things as a Tyrant, Traitor, Murtherer, and a publick and implacable Enemy of the *Commonwealth*. But this Prisoner at the Bar did exhibit the Charge, and the King did then, as you have heard, he did plead to the Jurisdiction of the Court. The King would fain have been heard, but I think they did adjourn for that time. The next day he pleaded the same thing, I remember the Answer that was several times given; twice given by *Bradshaw* to the King: thus, *that the Court did assert their own Jurisdiction*. The second and third day, I do not remember any day after the first, but that the prisoner at the Bar did demand judgement for the Kings not pleading, and did several times make complaints to the Court of the Kings delayes; that he intended delayes and nothing else.

*Cook.* Pray my Lord, one Question, whether, my Lord, before he heard me speak of demanding judgement against the King whether he did not hear Mr. *Bradshaw* several times say that the Court owned their Authority, and that the matter would be taken *pro confesso*?

Mr. *Bodurdo.* I did hear the Prisoner at the Bar desire of the Court, that it might be so; and I heard the Prisoner tell the King that it must be so.

*Joseph Herne* Sworn.

*Councel. Mr. Herne*, tell my Lords, what you know of the Prisoners carriage at the High Court of *Justice*, as they called it.

*Mr. Herne.* Upon Saturday the 20 of *January* 1648. it was the first day His *Majestie* was convened before them.

I could not come near the Court; onely I saw him at a distance I heard nothing, but the acclamations of the people crying out, *God save your Majesty*: what was done in the Court I know nothing of. On *Munday* I was there, & had a conveniency to see & hear what was there acted; and so His Majestie being come to the

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Seat appointed for him, the Priſoner at the Bar being called upon by the then Preſident *Bradſh.* he demanded of him what he had to ask of the Court, He was then talking with *Doriſlaus*, and ſeemed not to mind the buſineſſe of the Court. His Majeſtie ſitting near, takes his ſtick and thruſts the Priſoner at the Bar upon his ſhoulder; and the Priſoner looking back with a great deal of indignation turned about. I did hear *Bradſhaw* ſpeaking to him in theſe words, Mr. *Sol.* have you any thing to demand of the Court? whereupon the Priſoner at the Bar did uſe theſe or the like words: May it pleaſe your Lordſhips. I have formerly in the name of the Commons aſſembled in Parliament and the good people of *England* exhibited a Charge of High Treaſon and other high crimes againſt *Charles Stuart* the Priſoner at the Bar, flinging his head back in this manner to him. He had there further to require of the Court that he might be demanded to make poſitive anſwer, by confeſſion or denial; if not that the Court would take it *pro confeſſo*, and proceed according to Juſtice: this was on the firſt day I was in the Court. The Preſident *Bradſhaw* told His Majeſtie, that he heard what was craved in the name of the Commons aſſembled in Parliament and the good people of *England* againſt him by the now Priſoner at the Bar. The King ſtood up, but *Bradſhaw* prevented him in what he had to ſay, telling of him that the Court had given him time to that day to know when he would plead to the Charge. His Majeſtie proceeded to object againſt the Juriſdiction, and ſaid he did demur to the Juriſdiction of the Court; upon which the Preſident anſwered him, If you do demur to the Juriſdiction of the Court, you muſt know that the Court hath overruled your demurrer, and you muſt plead to your Charge, guilty or not guilty: upon that the King asked their authority, and deſired he might give reaſons againſt it; he was denyed it by the Preſident, the Preſident at laſt was content to tell him, that though he was not ſatisfied with their authority, they were, and he muſt: but to ſatisfie him, he told him in ſhort, they ſat there by the ſupream authority of the Nation, the Commons aſſembled in Parliament, by whom his Anceſtors ever were, and to whom he was accomptable; then the King ſtood up, by your favour ſhew me one Preſident. *Bradſhaw* ſits down in an angry manner, Sir, ſaith he, we ſit not here to anſwer your Queſtions, Plead to your Charge guilty or not guilty: Clerk do your duty; whereupon *Broughton* ſtood up and asked what he had to ſay, whether guilty or not guilty: and Preſident *Bradſhaw* ſaid

that

that if he would not plead, they must record his contempt. His Majestie turned about to the people, and said, then remember that the King of *England* suffers, being not permitted to give his reasons for the liberty of the people: with that a great shout came from the people, crying, *God save the King*: but there was an awe upon them, that they could not express themselves as they would have done I believe.

*Council.* What did *Cook* say to the Judgement, did you hear him presse for Judgement?

Mr. *Hern.* Yes, I heard these words from the Prisoner at the Bar, That if the King would not plead, his Charge might be taken *pro Confesso*, and that the Court might proceed according to Justice.

*Cook.* One question more, whether he often heard me speak those words, that it might be taken *pro Confesso*, and to proceed according to Justice.

Mr. *Hern.* You desired he might be held to his Plea, confession or denial, that he might not be suffered to use any words to the Jurisdiction of the Court.

*Cook.* Whether he heard the Charge read?

*Hern.* I did not hear the Charge read, I was not there the first day. I heard you confesse you had exhibited a Charge of High Treason against the Prisoner at the Bar, which was then the King's Majestie.

*Cook.* Whether I did not in the Charge conclude, that all proceedings might be according to Justice.

*Court.* Read the Title and last Article of that Charge, which was accordingly read, and followes in *hæc verba.*

*The Title of the Charge.*

*The Charge of the Commons of* England *against* Charles Stewart *KING of* England, *of High Treason, and other high Crimes exhibited to the High Court of Iustice.*

*The last Clause in the Charge.*

And the said *Iohn Cook* by protestation (saving on the behalf of the people of *England* the liberty of exhibiting at any time hereafter any

any other Charge against the ſaid *Charles Stewart*, and alſo of replying to the anſwers which the ſaid *Charles Stewart* ſhall make to the premiſſes, or any of them, or any other Charge that ſhall be ſo exhibited) doth for the ſaid Treaſons and Crimes on the behalf of the ſaid people of *England* impeach the ſaid *Charles Stewart* as a Tyrant, Traytor, Murderer, publick and implacable enemy to the Commonwealth of *England*, and prayeth that the ſaid *Charles Stewart* King of *England*, may be put to anſwer all and every the premiſſes, that ſuch proceedings, examinations, tryalls, ſentences and Judgment, may be hereupon had as ſhall be agreeable to Juſtice.

*Court.* Mr. *Cook*, will you have any Witneſſes examined touching the queſtion you laſt asked?

*Cook.* No, be pleaſed to go on.

Mr. *Baker Sworn.*

Mr. *Bak.* My Lords & Gentlemen of the Jury, I was at the High Court of Juſtice, as they called it, the firſt, ſecond & third daies not to trouble you with the proceedings of *Bradſhaw*, I will tell you what I obſerved of this Gentleman, I have the notes that I took there, and pray that I may read them to help my memory, which was granted, and then proceeded in this manner, That day my Lord, Mr. *Cook* told the Court that he charged the Priſoner at the Bar (meaning the KING) with Treaſon and high miſdemeanors, and deſired that the Charge might be read: the Charge was this. That he had upheld a Tyrannical Government, &c. and for that cauſe was adjudged to be a Tyrant, &c, and did then preſſe that the Priſoner might give anſwer to that: and that very earneſtly. The ſecond day, my Lord, he told the Court that he did the laſt day exhibit a Charge of High Treaſon againſt the Priſoner at the Bar, (meaning the *King*) and that he did deſire he might make anſwer to it, and he told them alſo, that inſtead of making an anſwer to the Court, the *King* had delayed the Court, but deſired the *King* might make a poſitive anſwer, or otherwiſe that it might be taken *pro confeſſo*. The third day my Lord, he came and told the Court as before, that the *King* had delayed them, and then he charged him with the Higheſt Treaſons and Crimes that ever were acted upon the Theatre of *England*, and then preſſed that Judgement might be given againſt him; and

another expreſſion was, that it was not ſo much He, but the Innocent and precious bloud that was ſhed, that did crie for Judgement againſt the Priſoner at the Bar: this my Lord, in ſubſtance; there were other paſſages.

*Cook.* Whether before this time he had not heard ſomething of an Act or Order proclaimed at *Weſtminſter*, whether there was any other word in effect uſed in that charge more then in the Proclamation?

*Mr. Baker.* I did hear of the Proclamation and Charge, and the ſubſtance of it, I have given an accompt of it, and I did hear you preſſe upon it very much: the Proclamation I heard of it that it was made for the ſummoning of the Court. but I did not hear the Proclamation made.

*Cook.* That that was called the Act of the Commons for Trying of the King?

*Mr. Baker.* I did hear of the Act, but did not take notice of it.

*Mr. George Maſterſon Sworn.*

*Counc. Mr. Maſterſon*, pray inform my Lords and the Jury what you know touching the carriage of the Priſoner at the Bar, at the Tryal of his late Majeſtie.

*Mr. Maſterſon.* My Lords, and you Gentlemen of the Jury, I was preſent in that they called the High Court of Juſtice upon the 22, 23, and 27. dayes of *January*, in the year 1648. I ſhall wave thoſe circumſtances which you have heard, and many of which I well remember. and what I heard likewiſe between the King, who was then a Priſoner, and the then Preſident *Bradſhaw*; But concerning the Priſoner at the Bar, this I very well remember, that upon Munday I heard him ſay he had exhibited a Charge of High Treaſon againſt the Priſoner (then the *King*) and demanded how that he might plead to his charge, I do very well remember that after ſome paſſages between the King and the Court, the Priſoner at the Bar deſired the King might plead to his Charge, or elſe it might be taken *pro Confeſſo*: I remember upon the laſt day, the day of that fatal Sentence, I heard the Priſoner at the Bar demand in the name of the Commons aſſembled in Parliament, and all the good people of *England*, Judgement upon the Priſoner at the Bar pointing to the King; *this is all.*

Mr. *Burden*

Mr. *Burden* ſworn.

*Councel.* Do you know who did examine the witneſſes againſt the King, and were you examined and by whom?

*Burden.* By Judge *Cook*, for ſo he was called in *Ireland.*

*Councel.* Did he examine you as a witneſs againſt the King, did he give you an Oath?

*Burden.* Yes, my Lord, and many others.

*Cook.* This is a new thing, I never heard of this before, where was it that *I* examined him? *I* had no power.

*Councel.* No, we know that, but you were active.

*Court.* Where was it?

*Cook.* Whether there was not any others with me in the Room, and where it was?

*Burden.* *I*t was at *Weſtminſter hall* within the high Court of Juſtice.

*Cook.* Who was there beſides me?

*Burden.* *I* cannot tell, *Axtel* he was there, and *I* am ſure *Cook* was there.

*Councel.* Mr. *Burden*, Pray tell my Lord and the Jury what queſtions you were examined upon, and what they tended too.

*Burden.* He examined me and gave me my Oath, there was eight or nine of us, we had been in the Kings Army in former times, this Gentleman (Col. *Axtel* brought us in, commanded us out of our Company, *I* was in his Company, and this Gentleman) himſelf gave us our Oaths, he asked us where we ſaw the King in action, *I* did reply to him, and told him I ſaw him in the Field with his Army; he asked me many other queſtions that *I* could not tell him, he asked me, whether *I* did ſee the King at *Nottingham* ſet up his Standard, and I was never at *Nottingham* in my life, theſe were the queſtions.

Mr. *Starkey* Sworn.

*Court.* Pray inform my Lords and Gentlemen of the Jury what paſſed between you and the Priſoner at the Bar, concerning the Trial of his late Majeſty.

Mr. *Starkey*, My *L*ords, this Gentleman now Priſoner, and my

ſelf have been acquainted a great while, being of the ſame Society of *Grayes-Inne*, and truly my Lord, I confeſſe I owe all my knowledge in the Laws to that Gentleman, when I came firſt he was accuſed for debt, and was pleaſed to do me, and ſeveral other Gentlemen now and then the favour to reaſon the Law with us, and aſſiſt us in the beginning of the long Parliament, that is to give you an accompt of his being indebted, he did deſire *I* would do my endeavour to get his Protection. Neer the time of the Kings Triall there was a Gentleman with my ſelf, one *Samuel Palmer* of *Grayes-Inne*, which frequented his Company, had ſeveral nights the opportunity of underſtanding the affairs at *Weſtminſter*, and truly he himſelf did ſeem to us to count that a very ridiculous Councel, *I* remember what he ſaid one night, I think they are all mad, which was within two or three dayes before the Kings trial, and inſtanced how a Fellow cryed out to the Lord *Fairfax*, that if he did not conſent to the proceedings, he would kill Chriſt and him. After that I did not think he did go to this Councel for imployment, but out of curioſity: when the King came to Tryal, we heard that Mr. *Cook*. was the perſon that was Solicitor, and Acted that part that you have heard of, and that during that Tryal, whether the ſecond or third day, I cannot ſay that certainly, Mr. *Cook* came to *Grayes-Inne* that evening about ten or eleven of the clock at night, only upon ſome particular occaſion as he ſaid, I being walking in the Court before my Chamber in the walk before my Chamber with another Gentleman, I did ſee him paſs out of a houſe to go back again, I thought it was he, called after him, Maſter *Cook* ſaid I, upon that he turned back and met me, I took him by the hand, ſaid I, I hear you are up to the eares in this buſineſſe, no ſaith he, *I am ſerving the People*, truly ſaid I, I believe there is a thouſand to one will not give you thanks, ſaid I, I hear you charge the King for the levying war againſt the Parliament, how can you rationally do this, when you have pulled out the Parliament to make way to his Trial? he anſwered me, *you will ſee ſtrange things, and you muſt wait upon God*, I did ask him, but firſt he ſaid this of himſelf, ſaid, he *was a gracious and wiſe a Prince as any was in the world*, which made me reflect upon him again and asked how he could preſſe thoſe things as I have heard? what anſwer he made to that, I cannot tell, *I* did by the way inquire what he thought concerning the King, whether he muſt ſuffer or no, he told me *he muſt die & Monarchy muſt die with him.*

*Cook.*

*Cook.* Whether was this after or before the Sentence?

Mr. *Starky.* It was before the Sentence, for it was either the ſecond or third Trial, or rather in ſome interim of time before the Sentence, for there was an adjournment for a day or two, but I am ſure it was before the Sentence.

*Court.* Mr. *Cook.* They have concluded their Evidence, Plead for your ſelf, what you think fitting.

*Cook.* My Lord, I have been a Priſoner three moneths, I humbly deſire to acknowledge his Majeſties and his Councells favour that I was not put into a *Ieremy*'s Priſon, but in the *Tower* and not in *Irons*: I give your Lordſhips humble thanks for that, and truly conſidering the nature of the Charge, had it been in ſome other Kingdome, they would have ſerved us as *Iohn Baptiſt* in priſon, I thank you that I have a fair Trial with the *Iudges* of the *Law*, who are upon their Oaths to do equal right and juſtice between our Soveraign Lord the King, and every Priſoner concerning matters of life and death, and likewiſe thoſe Noble Lords that though they are not put upon their Oaths but upon their honour, if they know any Law to preſerve my life, I truſt they will rather ſave then deſtroy. My Lords, I do therefore ſay as *Paul* ſaid, my plea is much of that nature, *againſt the Law, and againſt* Cæſar, *I hope I have not offended at all*, and ſo I have pleaded not guilty. The learned Councel have examined ſeveral witneſſes againſt me; and I humbly conceive that the matter will reſt in a very narrow compaſs; The ſubſtance of the charge (ſo far as my memory will ſerve) doth reſt in theſe three things, the other being but matter of form. *That I with others ſhould propound, conſult, contrive and imagine the Death of the late King.* Secondly, *That to the perfecting, and bringing about this wicked and horrid conſpiracy, that I with others did aſſume a Power, and Authority* (as I remember) power I am ſure, *then to kill and murther the King*, and thirdly, *That there was a perſon unknown that did cut off the Kings head and that we were abetting, aiding aſſiſting, countenancing, and procuring the perſon* (or words to that effect) *againſt the form of the Statutes, and ſo forth.* I have twelve poor words to offer for my ſelf in this buſineſs, wherein if I do not anſwer every thing that hath been particularly objected, I hope you will give me leave afterwards to offer it. Firſt, I humbly,

humbly propound this, that if it was not made appear to your Lordships that I did ever propound, consult, advise, contrive, attempt, or any way plot, or counsel the death of His Majestie; then I hope, I cannot be found guilty within the Statute of 25. *Ed.* the third, for the naked truth, Mr. *Nutly* hath in a great part spoke to, I was appointed upon the tenth of *January* 1648. for to give my advice concerning a Charge, there having been upon the ninth a Proclamation for the Triall, and upon the tenth Mr. *Steel*, Dr. *Doriſlaus*, and Mr. *Aske* and my self were appointed, and ordered to be of Council to draw up a Charge; Here I have the order attested by Mr. *Jeſſop*, and pray it may be read.

*Court*, They do admit the thing, that you were so assigned;

*Cook*, Then I humbly conceive that that cannot be said to be done maliciously, or advisedly, or with any wicked intention in me, which I was required and commanded to doe; Acting onely within my Sphere, and Element as a Counsellour and no otherwise. The next thing is this, my Lord, that by Law words will not amount unto Treason, we usually say, that words may declare an Heretick, but not a Traytor; there were some Statutes formerly 1 *Edw.* 6. there words are made Treason, but they are all repealed by 1 *Mariæ*, that nothing shall be Treason but what is expressed in 25 *Edw.* 3. this Objection will seem to lye, that these were words put in writing, and that I humbly conceive to be the greatest matter objected, to which I answer, 1. Whether there be any full, certain, clear proof that that is my hand to the Charge, I must leave to you; two or three witnesses, say they, believe it, and that it is like my hand, that I leave to you, if that appear, yet (My Lord) that that is put in writing as done by another that is the Dictator, and does dictate unto me, I humbly conceive that for any man to write words, which in their own nature may be Treasonable, if he doth but write them by the command of another, by speaking them after another, taking them upon rebound, that is not Treason, because they do not discover a trayterous heart; Those words of compassing the death of the King in the 25 *Edw.* 3. they are secret imaginations in the heart and they must be manifest by some overtact, that which was dictated (my Lord) unto me, that I had expresly prescribed me, what I should say, what words I should say. That I did not invent any thing of mine own head, of my own conceit, and therefore cannot properly be said to be malicious.

litious. The next thing that I crave leave to offer is this, that the pure and plain demanding and praying of Juſtice, though injuſtice be done upon it, cannot poſſibly be called Treaſon within the ſtatute, then I hope nothing that ha's been ſaid againſt me will amount to Treaſon: for the words in the natural, grammatical, plain, genuine and legal ſence will bear no other conſtruction, as I humbly conceive, but (that whereas thoſe Gentlemen had his Majeſtie then in their power a Priſoner) that it was prayed by me, that they would do him Juſtice; I do hope that it will appear that I did give *Bonum & fidele Conſilium*. It will appear, I hope, that ſome would have had a very voluminous and long Charge, that I was utterly againſt it, as conceiving that it was not fit and requiſite, that any thing ſhould be put in, at leaſt I durſt not invent one word my ſelf but what was expreſſed in the Act for Tryal, if your Lordſhips will not admit it an act, you will an Order, and ſo it will bear me forth, at leaſt to excuſe me from Treaſon, becauſe I kept my ſelf to the words, whereas in that it was ſaid that they ſhould proceed according to the merits of the Cauſe, I was againſt that, that I did not underſtand that, but according to Juſtice, and that is but according to Law, becauſe the Law is the rule of Juſtice. I do humbly hope (my Lord) that if by Law when words may be taken in a double ſence, they ſhall alwayes have the more favourable interpretation, much more when the words in the Legal ſence will bear it, when it is prayed they will proceed according to Juſtice, I hope it will not be inferred, there was any intention of doing injuſtice, when juſtice was required. And therefore (my Lord) the next word that I would offer is this, if my Lord, in all Tragedies which are, as we call them, judicially, or colourably, there are but theſe four Actors: Accuſers, or, Witneſſes, The Jury, Judges and Executioner. If I be none of theſe, I cannot be Guilty of Treaſon, I hope I may ſafely ſay according to Law, that I had not a hand at all in His Majeſties death; my Lord, the Court and Councel, it is very true, they do aime at the ſame thing, the Councel *Requirendo Juſtitiam*, the other *Exequendo Juſtitiam*, the end being the ſame, to have Juſtice. If when juſtice be demanded, and injuſtice be done, what is that to the Councel? we read 19 of *John* concerning *Pilate*. *Knoweſt thou not* (ſpeaking to Chriſt) *that I have power to crucifie thee, and have power to releaſe thee*? my Lord, I humbly anſwer this to that which ſeems to be the moſt ma-

material part of the Indictment, that we did assume a Power, My Lords, I did not assume a power, I hope it will not be said that the councell had any power, *Eloquentia* in the Councell, *Iudicium* in the *Judges*, and *Veritas* in the Witnesses. 25 Acts. *Tertullus*, that eloquent Orator, accused *Paul*; *Paul* answered for himself, and it is said *Festus* being willing to do the *Iews* a courtesie, he left *Paul* bound it was not the Councell that left him bound. His Majestie was never a Prisoner to me, and I never laid any hands upon him; if any witnesses have spoke of any irreverence, I must appeal to God in that I did not in the least manner carrie my self undutifully to his Majestie, though one of the witnesses was pleased to say, that I said these words, *that there is a Charge against the Prisoner at the Bar*; it was not said the *Prisoner at the Bar*, there was not one disrespective word from me. There is a Case in the third *Institutes* of the Lord *Cook*, it is to this purpose. That one wilfully and knowingly forswore himself, the Case was put to inveigle the Court, and though the Court does injustice upon a false Oath, it is not injustice at all in the Witness, it is Perjury in him; if there can be no injustice in a Witness, much less a Counseller can be said to have his hand in the death of any, because he ha's no power at all, this must needs follow, that if it shall be conceived to be Treason for a Counseller to plead against his Majestie, then it will be Felony to plead against any man that is condemned unjustly for felony. The Counsellour is to make the best of his Clients cause, then to leave it to the Court; it is said, I shou'd demand judgement, I do not remember that, I leave it to you, but still to demand Justice. Counsellers they doe ingage in businesse before they doe rightly understand the true matter of the fact, it is part of a *Serjeants* Oath, that so soon as he does discover the falsity of the Cause, he should forsake the Cause, my Lord, by what *Mr. Nutly* hath said it appears, and I have manie Witnesses in the Countrey, three or four in *Leicestershire*, would have spoken full to this, that (my Lord) there was not before the Sentence of the King (to the best of my knowledge) a word spoken by any, that they did intend to put him to death; I say to my knowledge, and my Lord, when Judgement is demanded is it not two-fold, of Acquittall and Condemnation? if those that then were entrusted with the power of Judicature, if they did not know any Law to proceed by to take away his

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Majeſtie, then I demanding their Judgement, it doth not appear to be my Judgement; and I referre it to the learned Counſel, that Counſel many times at the Aſsiſes and other Courts have been ſorry that the verdict hath been given for their Clients, when they have known the right lay on the other ſide; and ſo might I in this. The next thing I humbly offer, is, that if in right reaſon conſidering the condition His Majeſtie was then in, the adviſing to draw up the Charge was rather to be looked upon as a matter of ſervice then diſſervice, then it cannot be called Treaſon, it is very true my Lord, that a very ſmall little Overtact will amount to a Treaſon, and my Lord, had this been in times of peace and had His Majeſtie been no Priſoner, (now he was under the power of an Army) this had been great Treaſon; but he being a Priſoner, not by my means, (for I was no ſword-man) what can a man that knows himſelf innocent, being a Priſoner, deſire more then a ſpeedy Tryal? ſo that making the Tryal more ſpeedy cannot be ſaid to be done trayterouſly. A Tryal doth follow imprisonment as naturally and neceſſarily as the ſhadow doth the body. If any ſhall deſire and be inſtrumental in bringing him to a Tryal which might acquit rather then condemn him, and ſo humbly pray proceedings according to Juſtice, this will have I hope a better name then Treaſon. I am much beholding to His Majeſtie and this honourable Parliament, for the penning of the Act of *Indempnity*, which I hope my Lord you will give me leave to take notice of——

*Court.* Open as much as you will of it.

*Cook.* My Lords, the words that I would make uſe of, are in the beginning, Treaſon, Murder & other felonies that are ſpoken of, they are ſaid to be counſelled commanded, acted or done; in the preamble which is as the key to open the mind & meaning of the Law-makers, it is ſaid that all perſons ſhall be pardoned for all, excepting ſuch as ſhall be named, and in ſuch manner as they ſhall be excepted, and then it comes, provided that this Act ſhall not extend to pardon ſuch, and ſuch perſons & by name, I am one; and it is ſaid all which perſons for their execrable Treaſon in Sentencing to death, or ſigning the Inſtrument for the horrid murther, or being inſtrumental in taking away the precious life of our late Soveraign Lord *Charles* the Firſt of glorious memory are left to be proceeded againſt as Traytors to his late Majeſtie, according to the Laws of *England*, and are out of the ſaid Act wholly excepted, and foreprized. There is not any

thing offered against me upon the two 1*st*. great words, which are Sentencing & signing that which I have to doe to endeavour to clear my self is this being instrumental in taking away the life of His said Majestie, first I humbly offer this to the Juries consideration. That where the Parliament doth begin to fix the treasonable part, there I hope, and no otherwise this honourable Court will fix it: if it had been the Intention that Counsellors, advisers, and such as spoke their minds sometimes in the businesse (you know that was Epidemical) many words were spoken which cannot be justified; whether naturally it would not have followed, that all which persons for their counselling, advising or being instrumental, are left to be proceeded against as Traytors, I hope you will take that into consideration, concerning the words, or being instrumental, observe it is not said, or being any otherwaies instrumental, but Sentencing, signing or being instrumental, if therefore the word Instrumental be not of a general comprehensive nature, then all this evidence which hath been given in against me, being before the Sentencing and signing, will fall to the ground, that this is the legal, genuine, and Grammatical sense, and cannot be any otherwise, then as particular, as if it were the Sentencer, signer, and Executioner, which if it had been so, nothing of the Evidence would have reached me. My argument is this, such a use is to be made of an Act of Parliament, that no word may be frustrate, and insignificant, but if this Interpretation shall be put upon it sentencing, signing, or being any way instrumental, then the words, Sentencing and Signing need not have been, if Instrumentall will carry the words Sentencing, and signing, then these words will carry no force at all, especially, my Lord, when there is no need of any retrospect at all, if it be so, I know not how far it may look back; there is no necessity of putting any comprehensive generality upon this word instrumental, but that the plain natural sense will be this; That those, that did sentence and Sign, and those that were instrumental in taking away his life, that is, those that did abet, and comfort that person unknown, or justifie, or countenance him, which is after the Sentencing, and not before in the legall sense. Next I conceive that a Councellor cannot be said to doe any thing, *vi & armis*.

It is said that by force and Armes I did abet *&c*. it is Rhetorical to say that words may be as Swords, but legall it is not, unless there be something *vi & armis*, in the Grammaticall sense, instrumentall in taking

taking away the Kings life, it is not ſaid inſtrumental in order to take away the Kings life, or inſtrumental in adviſing to take away the K. life, but inſtrumental in taking away the Kings life. My Lord, The next thing is, that there cannot be any thing to be ſaid to be done by me, firſt not *falſo*, becauſe in that ſenſe it muſt have the operation of mendacitie, that there muſt be a lie told in it, I did nothing but what I was required to doe, to ſet down ſuch and ſuch words, I did not invent nor contrive them, I heard nothing of it till the 10 day of *Jan.* My Lord, for *malitioſe*, that I did not any thing malitiouſly, I hope it willl appear in this, what I then ſpoke, it was for my fee, it may be called *avaritia* but not *malitia*, for the Law will imply a malice, but when there is no other expreſſe ground or reaſon why the thing was done, but here was an expreſſe ground to ſpeak for my fee, I hope the Jury will take that into conſideration. Then Secondly I was not Judicial in the Caſe, I was not Magiſterial as any Officer, but miniſterial. As touching examining of witneſſes, it is a great miſtake, the Court had power to give an Oath; I might be there, but I had no power to give an Oath, but whether I might ask any queſtion, I do not remember, but that I ſhould give an Oath, that is a falſity; then my Lord, for *proditorie*, I hope there is nothing at all that appears to the Jury: ſo that there was no malice nor trayterous intention in the thing. There are ſome matters of Law which I deſire your Lordſhips will give me leave to ſpeak to, and that your Lordſhips will be of Counſel with me. I would offer ſomething concerning his Majeſties gracious Declaration from *Breda* to the Parliament (I was then in *Ireland*) I did put in a Petition to the honourable Commiſſioners before any exception was, that I might have the benefit of that Declaration, I did lay hold of it, my Lords there are 2 things in that Declaration that I would offer, His Majeſty ſaith that for the reſtoring of the Kings Peers, and people of the *K*ingdome to their juſt rights and Liberties, He will grant a free and general Pardon to all, excepting ſuch as ſhall be by Parliament excepted, and within three or four lines after it is ſaid a free Parliament, though I doe not in the leaſt queſtion the Legality of this Parliament, yet my Lord to this particular purpoſe, whether the Parliament that was to except ought not to be a Parliament that was to be called, according to *his* Majeſties Writ, according to the Laws of the Kingdome, I humbly conceive it will bear that, though His Majeſtie is pleaſed to confirm this, yet it is not ſuch a Parliament

that was to except, that I offer to your Lordſhips, My Lords, that that I would humbly make bold to put for my ſelf, becauſe it is the priviledge of one in my condition is this, There is my Lord many Lords, the Earle of *Eſſex*, the Earle of *Southhampton*, and others that were adjudged in the 44. of *Eliz.* the 3. Inſtitutes, they did trayterouſly and maliciouſly conſpire to take her Majeſtie Priſoner, and to remove her Counſellours from her, which were found guilty and ſuffered accordingly; the reaſon is, That becauſe thereby if it had been done, they had deſpoiled her Majeſty of her Regal Government, & the caſe is inſtant in *Philip* who was a nominative King, that it was not Treaſon to have attempted any thing againſt him, My Lords, his Majeſty being a Priſoner without any hand of mine, *I* giving aduice according to what was dictated to me to bring him to that tryal, whereby he might have been acquitted, and ſo ſet at liberty: I hope that will not be ſaid as inſtrumental. My Lords, I humbly ſhall offer but two words, 1. to the honorable Court, then to the Jury, the words of the 25 *E.* 3. and ſo the expoſition of the learned Judges have been from time to time, that there ſhall be no ſemblable Treaſons made by preſumptions or ſtraines of wit, but thoſe Treaſons ſpecified there; It is ſaid if a Husband doth kill his Wife, or a Wife kill her Husband, a Maſter ſhould kill his Servant, or the Servant ſhould kill his Maſter, that that ſhall be petty Treaſon; a Child did kill his Father, though that was looked upon as a greater ſin, yet the Judges do not preſume that to be treaſon becauſe it was not in the very words: this being an extraordinary Caſe, to write a thing after another, doth not appear there was a malicious heart in him that did write. There hath been the Act of Parliament that doth call theſe Courts Tyrannical and Unlawfull Courts; but my Lords, a Tyrannical and Unlawful Court is a Court *de facto*, though not *de jure*; if a Court be not a juſt and lawfull Court, it cannot be ſaid but that it is a Court: we ſay a Thief is a true man, though morally he is not ſo; this was a Court, Officers attending on them, ſome ſaid they had authority, and therefore for one to come and act within his Sphere, not to act out of that, nor to do any thing, but what he had a preſcript form appointed him, I hope that will not be found to be within the letter of the Law; I have been told (how true, I cannot tell) that there have been ſome votes in the honorable Parliament, that thoſe that did onely counſell or adviſe, thoſe were not to be looked upon as Traytors;

to: s; I have been told ſo, that thoſe that did only ſpeak as counſell for their fee, who were not the contrivers of it, the Parliament did not intend they ſhould be left to be proceeded againſt.

*Court.* That Letter that was ſent from the Commons to the King at *Breda*, they ſpeak firſt of the violation that was put upon the Parliament, and of the baſe horrid Murther of his late Majeſty. It is ſaid that the Parliament (I conceive they meant of the remaining part) they were not guilty, but ſome few ambitious, bloudie, guilty perſons, who contrived the ſame, and others miſled by them.

*Cook.* The other matter of Law is this, I ſay that I do hope that though that order, which I was about to produce concerning my acting, that if it may not in a Legal ſenſe any way be ſaid to be an Act of the Parliament and Commons, yet it may be ſaid to be ſuch an order to bear out thoſe that did Act according to it, becauſe there was then no other Authoritie *de Facto*, otherwiſe it were not lawfull for any man to exerciſe his profeſſion during ſuch a Power. I hope, Councellors might then exerciſe their profeſſion, aſwell as others; My Lord, though I ſhould ſuffer my ſelf in this Caſe, I ſhould be loath the honourable profeſſion of the Law ſhould, I think I was in my Sphere acting as a Counſellor. Now Gentlemen of the Jury that which I have to ſay to you, is an evidence concerning matter of life, it muſt be ſo clear that every one that heares it may underſtand it. It is called an evidence becauſe it is evident, it is one reaſon, why Priſoners for their lives are not allowed Councell for matter of Fact, becauſe the evidence is, and ought to be ſo clear, and plain that everie one ſhould be ſatisfied both Jurie and ſtanders by, and it is a proper word to ſay the Priſoner is convicted, that is, as much as his mouth is ſtopped, and therefore I ſay, truly as I hope, I may ſpeak it to you without offence, as *Ieremy* in another Caſe, when ſome of the people would have had them put him to death, *as for me behold I am in your hand, doe with me as ſeemeth good and meet unto you.* 26. Ier. 14, 15. *verſe*, ſaith he, *But know ye for certain, that if ye put me to death ye ſhall ſurely bring innocent blond upon your ſelves.* I hope you will not willingly be Guiltie of any ſuch thing, I muſt leave it to your conſciences whether you believe, that I had an hand in the Kings death, when I did Write but onely that which others did dictate unto me, and when I ſpoke onely for my fee, and this I would be bold to ſay, though the argu-

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ment is not ſo directly confeſſed, that humane Iuſtie ,(I do fi rſt ſy as this my principle, and opinion is)that as every man ought to pay his moral debts, ſo all political debts, there is a debt due to humane Juſtice, ſo political, if the Lord ſhould have ſuffered me to have been drunk and kill'd a man for which I ought to have died, in ſtead of ſpeaking for my ſelf, I would have rather intreated the Iurie to have found me Guilty, I think theſe things ought to be anſwered political debts, when I was in *Ireland*, and had opportunity of going away if I thought I had been Guilty I might have done it, my name is put into his Majeſties Proclamation. It is true, I was a Priſoner three or four moneths before, ſo that I could not render my ſelf, to what end ſhould that Proclamation mention my name? it was ſaid I obſcured my ſelf, but I did not, humane Iuſtice doth never puniſh, ſo much for expiation as for prevention; The Iudgements of the learned *Aquinas*, *Grotius*, and *Ameſius*, and many others, that if a man doth kill a man, commit any thing worthy of death, though he doth repent never ſo much, yet that others may be deterred from committing ſuch Acts, the Magiſtrate is bound to put him to death. But where there is not ſuch a thing there it is different, though it is ſaid the land is defiled; that is, where there is danger that the like may be committed again, now all things are ſettled there is no danger at all, now there can never come ſuch a caſe as this again, I ſay my Lord what I acted I did as a Counſeller, I had no malitious intention in it. Mr *Nutley* bare teſtimony ſo far; that I told him *there was not intention of putting his Majeſty to death*, I only did ſay that *I deſired them to do Iuſtice*, and I hope what was done, was their Act, not mine, and ſo I leave my ſelf to your Lordſhips.

*Court*, Silence commanded.

Mr. *Sol. Gen.* My Lords this Gentleman who is the priſoner at the Bar, requires ſuch an evidence of the Fact as may be evident, he ſaith ſo evident as may be as clear as the Sun, I think that evidence is not to ſeek, but if he muſt never be convicted till he be ſo far convinced as to be ſpeechleſs, I believe we may ſtay long enough, nevertheleſs if he be willing(as he ſaith he is)to pay his debts to political Iuſtice we ſhall quickly give him the total ſum. That which he hath ſaid, hath been like a *Lawyer*, the beſt that his Caſe will bear, but withall it is a great aggravation to his Crime, that he that knew the *Law* ſo well ſhould ſo much tranſgreſſe it; he began, *Words do not make treaſon*, he miſtakes, his Charge is not for words, Gentlemen, his

Charge

Charge is for *compassing and Imagining the Death of the King*, and the evidence of that Charge is meeting in that Assembly, and the part that he bore in that Assembly. And yet my Lords he will be much mistaken too: (under favour, and with submission to your Lordships Judgement, and those that hear him, if they think that in all Cases it is a general rule, that words are no Treason; for when a man shall proceed to declare the imagination of his heart, as to exhort and perswade men to effect that wicked thing, *The killing of the* King, certainly there cannot be a greater overtact then these words, nor a clearer evidence of such an imagination, *for out of the abundance of the heart the mouth speaks*. My Lords, to say that the demanding of Justice is not Treason, though injustice do follow, is a very weak gloss upon a wicked action; The Subject matter was a Charge of *High Treason against the King*, the conclusion of the Charge was *a Protestation*, by which he saved to himself a Liberty to put in a new Charge, if that was not sufficient; upon the whole he desires that the King *as a Traytor* may be brought to Justice, Judge you now Gentlemen upon the nature of this demand, whether this were such a demand of Justice as might end in acquittal; Whether he that presses that this Charge may be taken *pro Confesso*, did mean that when the Court had recorded it, They should acquit him when they had done. My Lords, to say there are four Actors in this Case, the witnesse, or accuser, the Judge the Jury, and the Executioner, and that he is none of them, and therefore in this Case he cannot be a Traytor: still my Lord that is to beg the question, for if he be one of them that did Assemble in the place, and were any instrument of that Assembly, he hath thereby given an evidence of an Overtact of his wicked heart, and when all is done this poor gloss amounts but to this, I *am none of those four Ranks, that is, there Were others worse then myself, and therefore I am none at all*. My Lord, the thing that he hath mainly insisted upon is the Act of Indempnity, my Lord, he doth observe that his name is excepted in that Act, That he doth hope that it is so pen'd as by the favour of the Parliament it may reach his Case, and he hath argued very much upon it, and he speaks as if he did believe it himself. But surely there is no colour for that interpretation, that he should step out of this proviso, by the very Act of *Indempnity* that was made on purpose to bring him in by Name, the words are, *provided that this Act nor any thing therein contained, shall extend to*

*Pardon*

*Pardon give any benefit to* John Cook, *&c.* All which perſons for their execrable Treaſons in Sentencing to Death or ſigning the Inſtrument for the horrid Murder, or being inſtrumental in taking away the precious Life of our late Sovereign Lord *King Charles* the Firſt of glorious Memory, are left to be proceeded againſt as Traytors, *&c.* Firſt, my Lord, this general and clear anſwer I conceive is to be given, that the Priſoner at the Bar being by Name excepted out of the Act of *Indempnity*, by the *proviſo* mentioned in it, although the ſubſequent lines that follow be the reaſons why the *Parliament* do except: yet if he be within the very words of the Exception, whether he be in the reaſons that moved them to that exception is not material, if he could diſtinguiſh that he was not inſtrumentall in that ſence to which he labours to reſtrain this Proviſo, he can but ſay this, the Parliament was miſtaken in their reaſon, but not in their concluſion, but he is directly within the exception and the reaſon of it too, for the word inſtrumental goes as far as far can be, and he is properly and literally in the ſtrict notion of the word, an inſtrument of the death of the King: The King could never have been brought to death, if not to the Bar; never had been ſentenced, if he had not been impeached; that impeachment could never have been taken *pro Confeſſo*; nor the impeachment it ſelf delivered, if he had not delivered the one, and preſſed the other: He that brought the Axe from the *Tower* was not more inſtrumental then he, and beſides a Lawyer as he, of great underſtanding, and of good parts, he knows very well there are no acceſſaries in Treaſon, but he that Acts any part in ſo wicked a Conſpiracy let him begin at what end he will, he ſtands reſponſible for the utmoſt conſequence of it, and in effect, the very penning of this Proviſo, is an expreſs Judgement of Parliament, that he was inſtrumentall, but that is not to be preſſed.

The next thing he doth inſiſt upon is, the Declaration of his Majeſty, that he ſent from *Breda*, which he ſaith he laid hold upon; here lies the weight of his anſwer, The King writes his Letter to the Parliament now ſitting, that he doth purpoſe, for the quieting of the hearts of men that may be in doubt, to pardon all perſons, all crimes of what nature ſoever, either againſt himſelf or Royal Father, excepting thoſe which ſhall be by Act of Parliament excepted, and my Lord, he doth ſay, and modeſtly preſſes, that he doth conceive, the meaning of that is to pardon all perſons, what crimes ſoever they have

have committed; Except ſuch as by a Free Parliament ſhall be excepted a legall Parliament called by the writ of the King, which this Parliament is not. To that I give theſe anſwers, Firſt, my Lord, I do ſay that this letter of our gracious Soveraign from *Breda* in it ſelf undoubtedly is no Pardon in Law for Treaſon, that cannot be without the Broad Seal. Next, a Pardon under the Great Seal in ſuch a form of words as this is would not be a Pardon of Treaſon, for that muſt not be pardoned by implication, but by poſitive words; ſo in the Caſe of Sir *Walter Raleigh* a Commiſſion directed to our well beloved Subject, would not pardon the Treaſon, of which he was condemned. In the next place this Letter at the moſt is but a pardon in honour, which muſt alwayes be taken according to the meaning; And that the Kings Honour may for ever be ſacred, I ſay this Letter doth no way help the Priſoner at the Bar.

Firſt, it is plain by the very Superſcription of this Letter, in which the Declaration was incloſed, that it is directed to the Speaker of Our Houſe of Commons in Parliament aſſembled, which cannot poſſibly be expounded of any other Parliament then that, which was then ſitting, to whoſe Speaker it was written.

Secondly the Letter it ſelf ſayes; we have left it to you to provide for ſecurity and Indempnity, and again, if there be a crying ſin for which the Nation may be involved in infamy, we cannot doubt, but you will be as ſollicitous to vindicate it as we can be, And then in this very letter encloſeth that Declaration, upon the penning of which the Priſoner ſo much relies; Now lay all together, and it is clear the Parliament meant by the Declaration, muſt be the ſame Parliament, which was meant by the Letter, and that was this very Parliament whom the King intended to truſt, both with Indempnity, and with the vindication of his Fathers death, and to be the Diſpenſers both of mercy and Juſtice in this particular. Another thing is this, This very Parliament as the Priſoner obſerves, they did goe to the King according to His gracious Letter, and in behalf of all the good people of *England*, they did lay hold of the *King*'s mercy in His Letter, and Declaration, and prayed that this claim by their Speaker in behalf of all the reſt of the Commons of *England* might be effectual

*Pardon give any benefit to* John Cook, *&c.* All which persons for their execrable Treasons in Sentencing to Death or signing the Instrument for the horr'd Murder, or being instrumental in taking away the precious Life of our late Sovereign Lord *King Charles* the Firſt of glorious Memory, are left to be proceeded against as Traytors, *&c.* First, my Lord, this general and clear answer I conceive is to be given, that the Prisoner at the Bar being by Name excepted out of the Act of *Indempnity*, by the *proviso* mentioned in it, although the subsequent lines that follow be the reasons why the *Parliament* do except: yet if he be within the very words of the Exception, whether he be in the reasons that moved them to that exception is not material, if he could distinguish that he was not instrumentall in that sence to which he labours to restrain this Proviso, he can but say this, the Parliament was mistaken in their reason, but not in their conclusion, but he is directly within the exception and the reason of it too, for the word instrumental goes as far as far can be, and he is properly and literally in the strict notion of the word, an instrument of the death of the King: The King could never have been brought to death, if not to the Bar; never had been sentenced, if he had not been impeached; that impeachment could never have been taken *pro Confesso*; nor the impeachment it self delivered, if he had not delivered the one, and pressed the other: He that brought the Axe from the *Tower* was not more instrumental then he, and besides a Lawyer as he, of great understanding, and of good parts, he knows very well there are no accessaries in Treason, but he that Acts any part in so wicked a Conspiracy let him begin at what end he will, he stands responsible for the utmost consequence of it, and in effect, the very penning of this Proviso, is an express Judgement of Parliament, that he was instrumentall, but that is not to be pressed.

The next thing he doth insist upon is, the Declaration of his Majesty, that he sent from *Breda*, which he saith he laid hold upon; here lies the weight of his answer, The King writes his Letter to the Parliament now sitting, that he doth purpose, for the quieting of the hearts of men that may be in doubt, to pardon all persons, all crimes of what nature soever, either against himself or Royal Father, excepting those which shall be by Act of Parliament excepted, and my Lord, he doth say, and modestly presses, that he doth conceive, the meaning of that is to pardon all persons, what crimes soever they have

have committed; Except such as by a Free Parliament shall be excepted a legall Parliament called by the writ of the King, which this Parliament is not. To that I give these answers, First, my Lord, I do say that this letter of our gracious Soveraign from *Breda* in it self undoubtedly is no Pardon in Law for Treason, that cannot be without the Broad Seal. Next, a Pardon under the Great Seal in such a form of words as this is would not be a Pardon of Treason, for that must not be pardoned by implication, but by positive words; so in the Case of Sir *Walter Raleigh* a Commission directed to our well beloved Subject, would not pardon the Treason, of which he was condemned. In the next place this Letter at the most is but a pardon in honour, which must alwayes be taken according to the meaning; And that the Kings Honour may for ever be sacred, I say this Letter doth no way help the Prisoner at the Bar.

First, it is plain by the very Superscription of this Letter, in which the Declaration was incloſed, that it is directed to the Speaker of Our House of Commons in Parliament assembled, which cannot possibly be expounded of any other Parliament then that, which was then sitting, to whose Speaker it was written.

Secondly the Letter it self sayes; we have left it to you to provide for security and Indempnity, and again, if there be a crying sin for which the Nation may be involved in infamy, we cannot doubt, but you will be as sollicitous to vindicate it as we can be, And then in this very letter encloseth that Declaration, upon the penning of which the Prisoner so much relies; Now lay all together, and it is clear the Parliament meant by the Declaration, must be the same Parliament, which was meant by the Letter, and that was this very Parliament whom the King intended to trust, both with Indempnity, and with the vindication of his Fathers death, and to be the Dispensers both of mercy and Justice in this particular. Another thing is this, This very Parliament as the Prisoner observes, they did goe to the King according to His gracious Letter, and in behalf of all the good people of *England*, they did lay hold of the *King*'s mercy in His Letter, and Declaration, and prayed that this claim by their Speaker in behalf of all the rest of the Commons of *England* might be effectual

to all purpoſes, and for all perſons other then thoſe that ſhould be by themſelves afterward excepted according to their requeſts, His Majeſty accepts their Petition, and makes Proclamation, that his pardon ſhould extend to all, but ſuch as they ſhould except, what can be more clear and evident, then that this is the Parliament which the K. did mean to be the very Parliament, to which the Letter ſhould have reference till the Act of Oblivion was paſſed again? the late tranſactions of theſe 12. years paſt, had involved ſo many perſons, that we could ſcarce find a man but he had need of mercy, nay this very Parliament to which the Letter was written, had need of Indempnity, and is it probable in the nature of the thing, or can it be underſtood by any man, that the King writing to this Parliament, and offering them pardon and Indempnity, ſhould mean ſuch a pardon and Indempnity, as a future Parliament to be called by his own Writ ſhould be willing to afford them, Whoſe hearts would have been ſatisfied with ſo contingent a ſecurity?

My Lords, upon the whole matter by what the King hath ſaid in his Letter, and by what the Parliament hath done in purſuance thereof, and by what the King hath proclaimed, it is to my underſtanding as clear as the noon day, that the honour of the King is not concerned at all in the exemption of the priſoner at the Bar; and for the Caſes of my Lord of *Eſſex* and *Southampton* which he hath cited, they make againſt him, they were condemned, becauſe they endeavoured to impriſon the Queen, and to remove her Counſellours, of which very fact the priſoner is in Law guilty too; and then the Caſe of King *Philip*, the Husband of Queen *Mary* makes nothing for him neither, unleſſe he will ſpeak out, and tell us plainly, that becauſe by a former violence the King was made a priſoner, he became but like a Titular King as King *Philip*.

In the next place he ſaith my Caſe is out of the Law, I acted as a Counſellour in my own particular for my fee, it was *avaritia*, but not *malitia*, nor *falſo*, *malitioſe*, or *proditorie*. But he muſt know, that no man hath or can have a lawfull calling, to purſue the life of his King, and the Law implies malice; for *malitioſe* and *proditorie*, are not onely words of courſe, but of truth too in this caſe, elſe

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it were as much as to ſay, that no Councill can be guilty of High Treaſon, then which nothing can be more abſurd: my Lord, for that which he ſaid laſt (for I muſt omit ſome things, and give him leave to take the advantage of it) to ſtand upon it, that the place was a Court, ſuch a one it was, that he was not anſwerable for the conſtitution of it, if it were not in a legal ſenſe; it was ſuch an order as might bear him out, that is, with modeſty and good manners to juſtifie High Treaſon; it is not with ſuch inſolency as ſome others before him did it, but it amounts to that, That an order of a few perſons that firſt made themſelves a *Parliament*, and then made a Court of Juſtice, had Officers and met together, and perfected ſo great a Treaſon: I ſay that this Order to bear him out is impoſſible. He that is a Lawyer, he muſt accompt to the Lawes for what he hath done, if the authority were not lawfull, he cannot but know that this which he calls the *Parliament* was ſo far from a legal authority, that it was one part of the Treaſon that he did aſſiſt ſuch an Aſſembly.

*Gentlemen of the Jury*, this is your own Caſe, here is a charge that is exhibited by the Priſoner at the Bar, as he ſaith, in the name of all the people of *England*. Look to it, for you are ſome of them if you own it, then it may be true what he hath ſaid, but I hope you meet here to tell this Nation and all the World that the people of *England* had no hand in that Charge, do but conſider how that this Priſoner at the Bar had hunted the life of the *King*, how he did fiſh out and examine evidence whether the *King* ſet up his Standard at *Nottingham*, was at ſuch a place and ſuch a place, to what end is all this, but with deſigne of bloud? Were theſe things to be produced againſt the *King*, and then Judgement to be demanded that he may be ſaved? Is it not plainly proved to you by Witneſſes, how he did exhibit the Charge, preſſe it, aggravate it, deſired it might be taken *pro confeſſo*, was afflicted with the delayes, how angry he was when he was interrupted? Is it not proved to you that he was at firſt againſt the thing, and ſaid *it was a baſe buſineſs*? when he was engaged in it ſaid, that he was *a Servant of the people of this Kingdome*? what doth he do at laſt when the thing had gone far? he ſpeaks that which is the onely truth which I have yet heard from him, *He muſt dye, and Monarchy then*

*muſt periſh with him*; from which Event, good Lord deliver us.

Sir *Edw. Turner.* My Lord, the ſubſtance of the defence that the Priſoner hath made at the Barre, with much skill and cunning, may be referred to two heads. The firſt to the Statute of the 25 *Edw.* 3. The ſecond to the late Act of *Oblivion*: for the firſt, my Lord, he ſaith that his fact is not comprized within that Statute, becauſe, ſaith he, I did never conſpire or imagine the death of the King, nor did believe that would be a conſequent of their actings. It was expreſly proved that himſelf did ſay that the King muſt die, and Monarchy with him, but Gentlemen though he had ſaid true, that it had not been proved, or that he did not believe that would be a conſequent, yet my Lord, I muſt tell you that every ſtep of this Tragedy was Treaſon, the ſummoning themſelves that was Treaſon, every proceeding upon that was Treaſon, the ſummoning of their meetings in the Painted Chamber, comming into *VVeſtminſter-hall* every perſon as inſtrumentall, thoſe that came to act the leaſt part in that Tragedy were every one guilty of Treaſon, what ſaith he, I acted as a Councellor for my fee. It was that fee that *Iudas* had, the 30. pieces of ſilver, that made him hang himſelf. He goes further and tells you, there muſt be no ſemblable Treaſons, this is clear; the conſpiring, and imagining the death of the King, thats the Treaſon that is mentioned in the Act, Treaſon by the Common Law, though this be not named the killing of the King, yet all theſe proceedings are demonſtrations to you, there was a ſecret Imagination to kill him, Then to the Act of *Oblivion* his Argument is, That becauſe the Act ſaith, that if they had S[illegible]nced, ſigned, or been Inſtrumental in the death of the [illegible], that they ſhould be excepted, but it is not ſaid, or *otherWiſe Inſtrumental* that therefore this ſhould refer to ſubſequent, not precedent Acts, thats a ſtrange Expoſition, take it Grammatically it hath the moſt large conſtruction, Inſtrumental, more large then if they had ſaid, or otherwiſe, for it doth comprehend every thing; There having been ſo full an anſwer already I will be ſhort, I will

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not meddle, with his civil debts, but with his Political, If a man kill another, though he doth repent, the Magiſtrate muſt doe Juſtice *in terrorem*. Though he doth repent, (*I* hope in God he doth ſo,) The Magiſtrates, your Lordſhips, muſt doe Juſtice *in terrorem*, *I* deſire that Juſtice may be done upon that man, He ſaid it was no Treaſon to demand Juſtice againſt the King, becauſe he did but demand it, I hope he vvill think it no unkindneſs in me to deſire judgement againſt him becauſe it is juſt.

Mr. *Wadham Windham*. As I do underſtand the Priſoner at the Bar, the chief argument which he ſhelters himſelf under, was his profeſſion, which gives a blaſt to all of us of the longe robe, I will not mince his arguments, ſaith he, here was a Court, *I* was appointed *Sollicitor*, and ſaith he, for men to practiſe before thoſe that have not a proper Judicature, it is not feloney, murther, or Treaſon, (*I* would not willingly mince his Argument) and that I was appointed, and the words dictated to me, and a Councellor carrying himſelf within the Compaſs of his profeſſion is not anſwerable, but if he will exceed his bounds, his profeſſion is ſo far from ſheltring him, that, as it hath been opened, it is very much an aggravation, it is the duty of a Counſellor to give Counſell, if a man ſhall come to me and aske counſell, and I ſhall counſell him to kill a man, am not I acceſſary to that murder? words by his argument will not amount to Treaſon, if the fact followes I am as guilty as if I did the fact: in point of Treaſon it is all one as if I had done that very act. If Mr. *Cook* did adviſe that Act, or was inſtrumentall, he is as much a Traytor as the man in the Frock that did the Execution; for his profeſſion, truly my Lord, I do not think that a Counſellor is alwayes bound to know the patent of him that ſits as Judge, that will not be his Caſe; here was noe ordinary Warrant of Law to carry on Iuſtice: *Grotius* ſaith, in caſe of neceſſity for carrying on Iuſtice, there may be many things allowed: *I* pray where did Maſter *Cook* reade of ſuch a Court as a High Court of Juſtice, there was never ſuch a High Court of Juſtice

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read of in Law, then as this was a mock Court, ſo under good favour it was a mock Juriſdiction. Was there any Law under Heaven to put the King to death? is it not out of the compaſſe of all Courts whatſoever to doe it? and under good favour my Lord, this is but to ſhelter a mans ſelf under colour of Juſtice to doe the moſt execrable Treaſon in the world; I have no more to ſay to you.

*L. C. Baron.* I would repeat the Evidence and your anſwer to you, if you have any thing new, ſpeak to it.

*Cook.* This is new, it was ſaid by one, that if there had been no charge there had been no ſentence given in the Caſe, I ſay that the Indictment or Charge is no part of the Tryall by the Statute of *Magna Charta*: The Peers of the Land ſhall be tryed by Peers, but are indicted by the Countrey; I conceive by what they have ſaid, they doe make me cauſal of the Kings death. It is ſaid in the Indictment there was a power, I ſay this, I did not aſſume any power, it cannot be ſaid, if Council be come in to an unlawfull power, that he takes the power, but ſtands with reſpect at the Bar. At Aſſiſes Judgment paſſes, The Clerk of the Aſſiſes, he is not inſtrumental in taking away life; for that which Mr. *Starkey* ſhould ſay, that I ſhould ſay, *The King muſt die, and Monarchy with him*, I humbly beg that the Jury would take notice of what Mr. *Nutley* ſaid, that I told him there was no intention of taking away the Kings life, and beſides it is but a ſingle witneſſe, I hope there muſt be two witneſſes in point of Law, to convict a man of High Treaſon.

*L. C. Baron,* Mr. *Cook*, you ſaid right but even now, that if there was any thing in matter of Law which the Court knowes of, which may be of advantage to you, they are of Council to you, and ſo they ought to be.

*Cook.* I thank your Lordſhips.

*L. C. Baron.* I ſhall repeat the whole Evidence, and begin with that firſt, (we are upon our Oathes) the Witneſſes that are a-

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gainſt you, I took notice of them, you have had a great deal of Liberty which you have made uſe of civilly, but Sir, for the fact, I think it is a great deal more full then as you have anſwered. Firſt, The firſt witneſſe produced againſt you was Mr. *Nutly* (I ſhall ſpeak onely the material parts, that concern your Charge) He ſwears expreſly, that he ſaw *Price* a Scrivener writing a Charge in the Court of Wards, that he ſaw this Charge in your hands; He ſaw afterwards when the King of bleſſed memory was brought as a priſoner, that there you delivered the Charge in, there is more then words, you delivered that Charge in, that alone is an overtact; then if there were nothing elſe in the Caſe, that a man in a paper ſhould call the King Traytor, Tyrant, Murtherer, and Implacable enemy, as there the words are, and he delivered this paper, and this be read, if this be not an overtact of imagining, and compaſſing the Kings death I doe not know what an overtact is, and he gives further evidence (if I miſtake) take free liberty to interrupt me.

*Cook.* Sir, they were not my words, but their words that commanded me.

*Lord Ch. Baron.* This I ſay, that this very thing alone, ſuch a paper approved by you, delivering this paper to an Aſſembly, and requiring it may be read: this is an overtact to prove the imagination of your heart for the Death of the King: the reaſon is, if the King ſhould be a Tyrant, a Traytor, *&c.* it ſtirs up hatred in the people, and the conſequences of that hatred is the death of the Prince. The next thing that Mr. *Nutly* ſaid was this, He ſaid that you demanded poſitively Judgement againſt him, againſt the bleſſed King then priſoner at the Bar. I remember you ſaid that you did demand Judgement, but that you did not demand Judgement againſt the King; take it ſo whether you did, or not, (though you ſhall find in ſome other Witneſſes that I ſhall repeat, that you ſaid Judgement againſt the King,) the conſequence will be the ſame: who could you demand Judgement againſt but the King he was the Priſoner, becauſe he did demand a further hearing by the

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*Parliament*, you urged that his Charge might be taken *pro Confesso*, then it must needs be Judgment against the *King*, it is effectively and implicitely the same. He went further, and that was, that being your friend and acquaintance, and acknowledging your parts as a Lawyer (which truly I do very much know my self, and do know this Gentleman to be a man of very great parts in his profession) he had familiar acquaintance with you, he told you what a base businesse it was, and you did your self acknowledge it, said the prisoner to Mr. *Nutley* himself, it is a base businesse, but they put it upon me. He did discourse further to him of the Oathes of Allegiance and Supremacy, which he knew very well, no man better, this Gentleman he very ingeniously confessed it, saying, I confesse it is so, they put me upon it, I cannot avoid it, but then excuses it, I am the servant of the people: Afterwards he pressed the *King* to answer positively whether guilty or not guilty, the pressing of the King to answer, what was it in effect, but to hasten Judgement? and that was to hasten his death, so that that is the substance of Mr. *Nutley's* testimony, that he pressed Judgement, Judgement was demanded by the prisoner now at the Barre, it is not onely demanded but pressed, and all the current of the witnesses at severall dayes are to this purpose, it is true (that I may repeat the whole for you, and against you) that this Gentleman the prisoner at the barre, when Mr. *Nutley* did urge this to him, said, he hoped they did not intend to take away the Kings life, I verily believe they doe not intend to take away the Kings life, I hope they doe not. But Mr *Cook*, it is no excuse to say you hope, or you believe they will not, &c. How far it may be in such a crime something in extenuation, *in foro Cœli*, but not *in foro Civili*; you opened it your self, that if a man should go about to take the King prisoner, it is Treason; the Law adjudged that to be Treason, when you knew that they would condemn him as a Tyrant, Murtherer, *&c.* you must easily believe what would follow such a condemnation, Truly death, that is no colour of excuse *in foro Civili*. *Farrington* he sweares to the same purpose, that he saw you, having a Parchment in your hands, delivering it in, and prayed it might be read as a Charge of the People, you did not speak, I deliver this in as from those that deliver'd it to me,

that

that was not in the paper, that you ſaid of your ſelfe, My brethren will tell you all, this is an apparent point of the Imagination of your heart; at that time, he ſwear the ſame thing, that you did deſire it might be taken *pro Confeſſo*, Maſter *Bodurda* is the third, he ſwears the ſame thing too, that you exhibited a charge of high Treaſon againſt the priſoner then at the Bar, and tells you the ſubſtance of it, he ſaith that all but the firſt day you demanded Judgement for not pleading to the charge, he adds that you complained of the delayes, I am ſure that was not dictated to you, that could not be thought that you ſhould deſire Judgement for the priſoner. It is very true which you ſay for your ſelf in that, that you did not demand it firſt, till it was demanded by the Court, Maſter *Bordurda* tells you, and ſo it was granted, the firſt day that *Bradshaw* onely ſaid it, but afterwards that you alwayes demanded it; The next was Mr. *Herne*, he ſwears the ſame words again, that you did in the Name of the Commons Aſſembled in Parliament, and the people of *England*, exhibit a charge, *&c.* Theſe are your own words, if you did exhibit a charge againſt the King, to exhibit a charge of High Treaſon the very thing followed. If it were ſo, there was death, ſo certainly there cannot be a greater expreſſion of the Imagination of a mans heart, then that is, it is true, you asked then a queſtion, and that was, whether that, that you concluded, was not that you deſired them to proceede according to Juſtice, it is true the words of the charge are ſo, but before you come to concluſion you charge him as a Traytor, Tyrant, *&c. Communis Hoſtis*, after you had given that charge, you demanded Juſtice, thoſe that ſpit in his face they demanded Juſtice, every one knew what belonged to that Juſtice. Then *Baker* he ſwears poſitively that you did exhibit the charge in this manner, he ſaid this that you ſaid, you had exhibited a charge of high Treaſon, *&c.* and that the King ſought delayes, there is your inſiſting upon it, he ſayes further that you ſaid theſe words, that you did deſire judgement ſhould be given againſt him, and not ſo much you as the blood

that had been ſhed that cryed for judgement, truly whether that was a judgement that you intended for acquittal that muſt be left to the Jury. You asked (becauſe I will) repeate it in order as my memory will give me leaves whether there was any other words in the charge, then wa in the Proclamation? Mr. *Cook*, Whether there was any other words, or no, that differed in the Proclamation, as it was a great ſinne and foul fact in the Proclamation, ſo it was as foul in the charge. Maſter *Maſterſon* ſwears the ſame too, he heard you ſay the ſecond day you had delivered a charge (the day before) againſt the King, and that he had delayed his anſwer, you deſired he might plead guilty, or not guilty, the laſt day, that you did in the names of the Commons Aſſembled in Parliament, and the people of *England* demand judgement againſt the King, and then another ſwears thoſe words, judgement againſt the priſoner at the Bar, which was the King. *Burden* ſweares, you examined him as a Witneſs againſt the King, in what place he was with the King, It ſeemes he was in the King's Army, he ſwears you gave him an Oath, (it is teſtimony fit to be believed) but however if you did not give the Oath, by what you ſay your ſelf, you may be by, and asked him the queſtion. Maſter *Starkey*, he tells you, that during the Tryall, and before the Sentence, that you, being an old acquaintance of his in *Grayes-Inn*, and ſpeaking with him, he ſpake like a friend to you, I hear you are up to the ears in this buſineſs, and whereas you talk of the people, there is a thouſand for one againſt it, that you ſhould tell him again, You will ſee ſtrange things, but you muſt wait upon God, (theſe words of waiting upon God are words of that nature, people do uſe them nowadayes, when they would do ſome horrid Impiety, which hath been the ſinne of too many; it is but a canting language, that is the beſt term I can give it. you told him then, He muſt die, this was before the ſentence (that is to be obſerved, Gentlemen of the Jury) you ſay you did not know of the Sentence, you ſaid He muſt die, and Monarchy with him; you muſt here know that ſome of thoſe

perſons

perſons that ſate upon him ſaid, the *King* was a gracious and wiſe *King*, and as Mr. *Cook* did ſay, and they were the beſt words they ſpoke, and I think he thinks ſo in his conſcience, but in concluſion He muſt die, and Monarchy muſt die with him, others ſaid, they did not hate King *Charles*, but they hated Monarchy and Government, but Monarchy was the thing that they would behead; I think I have done with the Evidence that was given againſt you, the Indictment it ſelf was read, the Overtacts was the meeting, propounding and conſulting about it. It appears he was in the Chamber about the Charge, that he did propound it, he delivered the Charge, and it appears withall, that he demanded Judgement; he deſired the King might anſwer, or that it might be taken *pro Confeſſo*: theſe are overtacts to declare the imagination of his heart. The anſwer of Mr. *Cook*, I will repeat it as clearly as I can, becauſe nothing ſhall go to the extenuating of the fact, but it ſhall be ſpoken. Mr. *Cook*, in your anſwer, your defence that you make, you ſet forth the heads of this Indictment, and you ſet them forth very truly; the heads are the aggravations of the Indictment, the Indictment was the compaſsing and imagining the death of the King; you ſaid it was upon theſe grounds; that you did propound, abet, and conſult the death of the King, that you with others, did aſſume power and authority to kill the King, & that thereupon a perſon unknown in a Frock did accordingly kill the King. You ſay to the firſt part, if it did not appear that you did adviſe the death of the King, that you were not guilty: for that Sir, as I told you before, taking them either complexly or ſingly, if any of the particulars reached to one of theſe acts, it was enough, but it reaches to all: you required Judgement againſt the King as a Traytor, and that with a reaſon, and certainly death muſt follow: you ſay you were appointed to give your advice, you had a Proclamation, firſt for Tryall of the King, you had the Order of the tenth of *January*, whereby you were appointed to give your advice, if it were ſo, it will be no excuſe at all, the Proclamation gives you no warrant at all, he that obeys ſo wicked a Proclamation, it will not ſave him; it ap-

pears you were privy to this before the Proclamation, if you were not at all, when ſuch a thing as this is ſuch a Proclamation and Act, and ſuch a manner of Tryall, as I believe though you have read very much, you never heard of ſuch a thing in in our Law, or forreign Nations. That you thereupon ſhould take upon you to be of Councel againſt the King, it aggravates the fact: other men may be impudent and ignorant, but you that were a learned Lawyer, your being of Councill doth aggravate the thing. You ſay, Secondly, by Law words will not amount to Treaſon, for that I would not have that goe for law by no means, though it be not your Caſe, for you are not indicted for words, but words are Treaſon, and Indictments are often for it, but the difference is this: The Indictment is not for words, but compaſſing and Imagining the Death of the *King*, words are evidences of the compaſſing and imagining the *Kings* death. It is the greateſt evidence of the imagination of the heart. Words do not make a Treaſon, that is, if it be by inference, or conſequence, but reductively, but if it be immediately, I ſhall ſay to a man, goe kill the *King* by that which is an abſolute, immediate, neceſſary conſequence to ſay, this is no Treaſon, I would not have that goe for Law, your Caſe is not for words, but for delivering a Charge, the ground that you ſpeak of words may make a Heretick but not a Traytor, it was a witty ſaying, but you have no ſufficient authority for it, theſe are words put in writing: we all know if a man put his words in writing, if a man ſpeak treaſonable words, and put them in writing, they have been ſeverall times adjudged Treaſon, and ſo in (my Lord) *Cook*'s 3. *Inſtitutes* the Caſe of *Williams* of the *Temple*, there was a Book of Treaſon in his own Study of his making, and he was indicted for it, words put in writing is an expreſſe evidence of the imagination of the heart, you ſay it was dictated to you, but when words are written in a Charge and your name to it, (which I had almeſt forgotten) thats more then words: the Witneſſes ſwear the likeneſſe of your hand, they doe but ſwear the likeneſſe of

your

your hand, no man can ſwear more unleſs he was preſent and ſee it, but you owned the charge, and there your name is, that beſides the two witneſſes there is your own actions to prove it, When two witneſſes ſhall ſwear it is like your hand and you own that charge, I muſt leave it to the Jury: you ſay, you did this after command, the words were dictated to you, the words were *conceptis verbis*, appointed, and ordered by the Court, but the preſſing was yours he ſtands upon delayes let it be taken *pro Confeſſo*, demanding Judgement, theſe were your words, another man may dictate a thing but you are not forced to ſpeak it, you urged it, owned it, you demanded not in the name of the Court, but in the name of all the people of *England*, you ſay further that your demanding Juſtice is not within the ſtatute, as I ſaid before, what can be the effect of demanding Juſtice but that the King ſhould die upon thoſe premiſſes; you ſay further that it was in behoof of the King, as you would urge it to doe the King a Curteſy in asking that the King might have Juſtice, but you did not name what Juſtice it was, but you did him a Curteſy, truly the King was but a little beholden to you for that requeſt, all the world knows what that demanding Juſtice was, it was to have the Kings head cut off, you went as far as you could, it ended with you when you demanded Juſtice, that is as far as you could, you cut off the head. S. *Paul* when the Witneſſes laid down the clothes at his feet, he ſaid, I killed *Stephen* the Martyr, you ſay, further that in all Tragedies the accuſer, or Witneſſe, the Jury, the Judge, and executioner are the onely perſons, and you are none of theſe, you are only of Councel, if Juſtice was not done, vvhat vvas it to you? you ſaid you did not aſſume a power, there vvas onely Eloquence required in the Councel, it hath been truly ſaid that this is a great aggravation to be of Counſel againſt the King, you ſaid His Majeſty was then a priſoner and accuſed, Counſel cannot be heard againſt the King, you undertake to be Counſel againſt the King in his ovvn perſon and in the higheſt

Crime,

crime, if the Councel at the Barre in behalfe of his Client ſhould ſpeak Treaſon, he went beyond his ſphere, but you did not onely ſpeak, but acted Treaſon, you ſaid you uſed not a diſreſpective word to the King, truly for that you hear what the witneſſes have ſaid, you preſſed upon him, you called it a delay, you termed him not the King, but the priſoner at the Barre at every word; you ſay you did not aſſume an authority, it is an aſſumption of authority, if you countenance and allow of their authority; you ſay you doe not remember you demanded Judgement againſt the King, that is fully proved againſt you, you your ſelf asked the queſtion, whether you did ſay againſt the King, he did not remember, but others poſitively, that you demanded Judgement againſt the King and priſoner at the Barre, you ſaid that before ſentence there was not an intention to put the King to death, to that Mr *Starky* ſweares, that you expreſly ſaid, the King muſt die, and Monarchy with him, and this before the ſentence: whereas you ſay this is but one witneſſe, that there is to be in Treaſon two witneſſes, but that there ſhould be two witneſſes to every particular, that is an Evidence of the fact, that is not Law, if to one particular that is an Evidence, there be one witneſſe, another to another, here are two witneſſes within the meaning of the Statute, two witneſſes to the Indictment compaſsing and imagining the death of the King, being accompanied with other circumſtances, this one witneſſe if you believe him, is as good as 20 witneſſes, becauſe other overtacts are expreſly proved by ſeverall witneſſes: You ſay next, for the drawing of the Charge, in right reaſon, it ought to be counted for the ſervice of the King: Firſt you do acknowledge, and truly very ingenuouſly, that in the time of peace to bring him to the Barre, not being a priſoner, is Treaſon (you ſay it) according to the Law, and that you delivered the Charge, for the accelerating of the Charge, and that it was not done by you trayterouſly, you ſay the King was a priſoner before, and you ſay what hands he was in, in the hands

of

of men of povver and violence, it had been your duty to have delayed it, not Accelerated it, that there might have been ſome means of prevention of that bloody Act, that followed; if you knew that to be Treaſon to make him a priſoner, Subjects do not uſe to make Kings priſoners but death follows, you urge in the next place the Act of Indempnity, and that you are not excepted, for that, you have made as much of it as the matter will bear, yet you muſt conſider, Firſt, as a rule in Law, that where there are general words, when they come to be explained by the particulars, you ſhall not include them within the general: Mark the very words, they are theſe, provided that this Act, nor any thing therein contained ſhall extend to pardon diſcharge, or give any other benefits whatſoever unto ſuch, and ſuch, (among whom you are named) nor any of them, nor to thoſe two perſons, or either of them who being diſguiſed by Frocks, and Vizards, did appear upon the Scaffold erected before *Whithall*, upon the 30th of *Ianuary* 1648. All which perſons, theſe are the words. Firſt, It ſhall not extend to you, then it comes, All which perſons for their execrable Treaſon in Sentencing to death, or ſigning the Inſtrument for the horrid murther, or being Inſtrumentall in taking away the Precious life of our late Soveraign Lord CHARLES the Firſt of glorious Memory, are left to be proceeded againſt as Traytors to His late Majeſty according to the Laws of *England*, and are out of this preſent Act wholly excepted, and foreprized. Firſt, as I told you before, and as it was very well ſaid by Maſter *Sollicitor*, admitting the reaſon had been miſtaken, and that you had not been comprehended in the reaſon, you are excepted out of the body, provided it ſhall not extend, *&c.* Many times Laws do make recitals, which in themſelves are ſometimes falſe in point of fact, that which is the Law is poſitive words, the other vvords are for the reaſon; Excepting all vvhich, that is, Maſter *Cook*, vvhich perſons are excepted not for doing of it, but for his execrable crimes in being Inſtrumentall. *It* is clear vvithout that, if it were not ſo, vve ſay vvhen a

Sentence

Sentence is, or ſuch a one or ſuch a one, the third or makes all disjunctive: Here are three Or's, firſt in ſentencing to death, or ſigning the Inſtrument, then comes this, or being inſtrumentall in taking away the precious life of our late Soveraign, *&c.* this Or doth clearly exclude the other two, or inſtrumentall not onely in point of death, but further, being neither a Sentencer, Signer, or being inſtrumentall in taking away the Kings life; that is, being any way inſtrumentall. Truly, whether it be not inſtrumentall to exhibit a Charge againſt him, or complain of his delayes, to ask Juſtice againſt him in the name of the people; to doe all this, and deſire that the Charge might be taken *pro Confeſſo*, if this be not inſtrumentall, I know nothing elſe. Sentencing and ſigning: Some ſigned the Sentence, ſome the Inſtrument for death: the next degree of being Inſtrumentall, the higheſt degree of that, is to accuſe him, to deliver in the Charge againſt him, in the name of the people, doe it again and again, be angry at the delayes. The next thing is this, that you did not doe this *falſo* or *malitioſe*, but for your Fee; and that though there might be *avaritia*, there was not *malitia* in it, it was done by your Profeſſion, you were not Magiſteriall in it; you thought the conſequences that did follow, would not follow. If a Man does but intend to beat a Man and he die upon it, you know in Law it is all one: You muſt underſtand, there is a malice in the Law; If a Man beat one in the ſtreets, and kill him, though not maliciouſly in him, but it is ſo in Law. That you deſire to have the benefit of the Kings Declaration; that you did put in your Petition proving the ſame; that you were a priſoner before; that the Commons in behalf of themſelves and the people of *England*, they craved the benefit of it, which was granted, excepting ſuch as ſhould be by Parliament excepted, and that the King ſhould mention a Free Parliament for this, it hath been fully anſwered to you, & clearly by Mr Sollicitor, that you are not at all

concern-

concerned in the Kings Declaration at *Breda*. For first, it is nothing in Law, it binds in honour, and we have given the same directions yesterday upon the like occasion, that is, that the Kings Declaration binds him in honour and in Conscience, but it does not bind him in point of Law, unlesse there were a pardon granted by the Broad Seal, the thing is cleared to you what Parliament the King meant by it, they were sitting at that time, had acknowledged their dutie and allegiance to their King, they went *ad ultimum potentiæ* for a free and absolute Parliament, whilst the King was absent, though the King was away; yet notwithstanding the King declared whom he meant, he directed one of those Declarations to our Speaker of the house of Commons, and another to the Speaker of our Peers, in this case it was *loquendum ut vulgus*, it was owned by him as having the name of a Parliament, it was done with great wisdome & prudence, and so às it could be no otherwise, they that were loyall subjects, acting in the Kings absence, he consenting to it, the King owning that Authority, so he was obliged in honour no further then his own meaning and words, but there is another Clause in the Act excludes all these persons. The next thing is this, you say the Statute of 25 *Edward* 3. and it is very true; you say if it be any semblable Treason, we were not to judge upon that, unlesse they were the Treasons in the Act, and it is most true; now you would urge but this, that this is but a semblable Treason, but you are indicted for the compassing and imagining the Death of the King; if these Acts did not tend to the compassing and imagining the Kings Death, I know not what does, I am satisfied you are convicted in your conscience. The next thing (for you have said as much as any man can in such a Cause, it is pitie you have not a better) you say, though it was a Tyrannical Court as it is called, but such a Court it was, and there were Officers you say, it had *figuram judicii*, that aggravates the fact to you, to your profession. There is a difference between a standing Court, and that which is but named to be a Court, this was but one of a day or two's growth before, and you know by whom, by some that pretended to be onely the Commons, your knowledge can tell you that there was never an Act made by the Commons assembled in Parl. alone, and you may find it in my Lord *Cook*, that an Act by the Lords and Commons alone was naught, as appeared by the Records, Sir *James Ormond* was attainted of

Treaſon, the Act was a private Act by the King and Commons alone, the Lords were forgot, when the Judges came to try it, it was void, and another in *Henry* the 6. time: you know this was no Court at all, you know by a printed Authority, that where a ſettled Court, a true Court, if that Court meddle with that which is not in their cogniſance, it is purely void, the Miniſter that obeys them is puniſhable, if it be Treaſonable matter, it is Treaſon: if Murder, it is Murder: ſo in the Caſe of Martial ſea, and in the Common Pleas, if a man ſhall begin an Appeal of death which is a criminal nature, and ought to be in the Kings Bench, if they proceed in it, it is void; if this Court ſhould condemn the party convicted, and he be executed, it is murder in the Executioner, the Court had no power over ſuch things; you ſpeak of a Court, Firſt, it was not a Court: Secondly, no Court whatſoever could have any power over a King in a coercive way, as to his perſon, the laſt thing that you have ſaid for your ſelf, is this, that admitting there was nothing to be conſtrued of an Act or an Order, yet there was a difference, it was an Act *de facto*, that you urged rightly upon the Statute of 11 *Henry* 7. which was denyed to ſome, God forbid it ſhould be denied you, if a man ſerve the K. in the War, he ſhall not be puniſhed, let the fact be what it will: K. *Henry* the 7. took care for him that was King *de facto*, that his Subjects might be encouraged to follow him, to preſerve them, what the event of King was: Mr. *Cook* you ſay, to have the equity of that Act, that here was an authority *de facto*, theſe perſons had gotten the ſupream power, and therefore what you did under them you do deſire the equity of that Act; for that clearly the intent and meaning of that Act is againſt you, it was to preſerve the King *de facto*, how much more to preſerve the King *de jure*, he was owned by theſe men, and you, as King, you charged him as King, and he was ſentenced as King. That that King *Henry* the 7. did, was to take care of the King *de facto* againſt the King *de jure*, it was for a King and a Kingly Government, it was not for an Antimonarchical Government, you proceeded againſt your King, your own King, and as your King, and called him in your Charge *Charles Stuart* King of *England*. I think there is no colour you ſhould have any benefit of the Letter, or of the equity of the Act. They had not all the Authority at that time, they were a few of the people that did it, they had ſome part of the Army with them, the Lords were not diſſolved then when they had

had adjourned ſo ne time, they did ſit afterwards, ſo that all the particulars you alledge, are againſt you. The laſt thing was this you ſay, that it having pleaſed God to reſtore the *King*, Judgement ſhould be given for example for terrour to others, that this could not be drawn into example again, why? becauſe by the bleſſing of God peace was reſtored, no probability that if your life was ſpared, that it would be drawn again into example, that is the weakeſt thing you have urged, you muſt know the reaſon: there are things, there is the puniſhment & example, puniſhment goes to the priſoner, but examples to the documents of all others; God knows what ſuch things may be in after ages, if there ſhould be impunity for them, it would rather make men impudent and confident afterwards: If you have any more to ſay I will hear you, if not I muſt conclude to the Jury: you hear the evidence is clear for compaſſing and imagining the Death of the King, you have heard what he has ſaid, and what he hath done, he was within, and examined Witneſſes againſt the King, that he was by at the drawing of the Charge, where it was drawn, you hear he exhibited this Charge in the name of the Commons aſſembled in Parliament, and the good people of England, and what this Charge is, it is of High Treaſon and other high miſdemeanors, you find that he does complain of delayes, does again and again ſpeak of this Charge, deſires it may be taken *pro Confeſſo*, in the cloſe of all, it was not ſo much he, as innocent bloud, that demanded Juſtice; this was more then was dictated to him. You have heard the Witneſſes, he was perſwaded to forbear, acknowledged the King to be a gracious and wiſe King. The Oaths alledged againſt him, and you have heard his excuſe, I have nothing to ſay more, I ſhall be very willing to hear you further: I have not abſolutely directed the Jury.

*Cook.* I do humbly acknowledge your patience in hearing me, and that your Lordſhips have truly and juſtly ſtated both proofs and my anſwer. If your Lordſhips are pleaſed to lay aſide theſe Acts, or Orders, or Authority whereby I did at that time truly, conſcientiouſly act, and did think it would bear me out, if you lay aſide that, and look upon it as ſo many men got together without authority, & aſwell thoſe that were inſtrumental, though not ſentercers or ſigners, & that clauſe in the Act, I confeſs I humbly make bold to ſay, I have not received ſatisfaction in my judgement, thoſe very words of *not ſo much I, as the innocent bloud cries for Juſtice* were dictated to me, there was nothing at all left to me, becauſe his

Majeſty did not plead, there was no Tryall, that which I did was according to the beſt, though it may be according to the weakeſt part of my judgement, I have no new matter.

*Lord Chief Baron.* You have ſaid no new matter, unleſſe it be worſe then before, for now you warrant that Authority.

*Cook.* Do not miſtake me (my Lord) I mean ſo far as to excuſe me in the point of High Treaſon.

*L. C. B.* We delivered our opinions, as to that formerly, we were of opinion, that the acting by colour of that pretended authority was ſo far from any extenuation, that it was an aggravation of the thing, the meeting by that Authority was Treaſon, and in them them that acted under them and approving of it the making of that trayterous pretended Act, making the Proclamation, ſitting upon it, they were all ſo many Treaſons: That was the reaſon why that was urged againſt you, aſſuming upon you the power, that was, you approving of their power by acting under them, ſo that there is nothing more to be ſaid.

Gentlemen of the Jury, you have heard the Indictment was for compaſſing and imagining the death of the King, you have heard the ſeverall overtacts repeated, and whether theſe are guilty of Treaſon to deliver in a Charge againſt the King, ſuch a one as that was in theſe words, as againſt a Traytor, Tyrant, Murderer, and implacable enemy to the Commonwealth in theſe very words, to deſire Judgement againſt the Priſoner (then the King) at the Bar, angry at delayes, to deſire that the Charge might be taken *pro Confeſſo*, to have it expreſly, again and again to demand Judgement: if theſe be not overtacts of compaſſing and imagining the Death of the King, and that which hath been ſaid by the Witneſſes, it muſt be left to you, I think you need not go from the Barre.

*Jury went together. Silence is commanded.*

*Court.* Are you agreed of your Verdict?

*Jury.* Yes.

*Court.* Who ſhall ſpeak for you?

*Jury.* The Fore-man.

*Court.* *John Cook* hold up thy hand, look upon the Priſoner at the Bar, how ſay you, is he guilty of the Treaſon in manner and form as he ſtands indicted or not guilty?

*Fore-man* Guilty.

*Clerk.* Look to him *Keeper*,

*Court.* What Goods and Chattells?

*Jury.* None that we know of.

*Cook*

 149-152 Hearing

# The Tryal of *Hugh Peters* the ſame 13. of *October*, and at the ſame Barre.

*Clerk of the Crown.* SEt *Hugh Peters* to the Barre, he was brought accordingly.

*H. P.* Hold up thy hand, thou ſtandeſt Indicted, &c. If you will challenge any of the Jury, you muſt challenge them when they come to the book, before they are ſworn.

*Sir O. B.* Mr. *Peters*, You may challenge to the number of 35. peremptorily, but beyond that you cannot, without good cauſe ſhewn, and you may have Pen, Ink, and Paper.

Peters. *My Lord, I ſhall challenge none.*

Jury ſworn, 12. Sir *Jer. Whitchcot*, *James Hally*, *Chriſtopher Abdy*, *Nich. Rainton*, *Rich. Cheyney*, *John Smith*, *Rich. Abell*, *George Terrey*, *Charles Pickern*, *John Nichole*, *Francis Dorrington*, *Anthony Hall*.

*Cler. Hugh Peters* hold up thy hand. Look on the Priſoner you that are ſworn, &c.

Sir *Ed. Turner* to the Jury. You have often heard repeated to you, that the ſubſtantial part of the Charge is the compaſſing and imagining the death of the King, and all the reſt will be but evidence to prove that imagination againſt the Priſoner at the Barre, whom we will prove to be a principal actor in this ſad Tragedy, and next to him whom God hath taken away, and reſerved to his own Judgement; and we ſhall endeavour to prove, That he was a chief Conſpirator with *Cromwell* at ſeveral times, and in ſeveral places, and that it was deſigned by them. We ſhall prove that he was the principal perſon to procure the Souldiery to cry out Juſtice, Juſtice, or aſſiſt or deſire thoſe for the taking away the life of the King. He did make uſe of his profeſſion, wherein he ſhould have been the Miniſter of peace, to make himſelf a Trumpeter of war, of Treaſon and Sedition in the Kingdome. He preached many Sermons to the Souldiery in direct terms for taking away the King, comparing the King to *Barabbas*; He was inſtrumental when the Proclamation for the high Court of Juſtice (as they called it) was proclaimed, directing where it ſhould be proclaimed, and in what place. When the King was brought upon the ſtage, that Mock-work

he was the perſon that ſtirred up the Souldiery below to cry for Juſtice; we ſhall ſhew you as he preached at ſeveral times upon ſeveral occaſions, ſtill he was in the Pulpit to promote this buſineſs, the next day after he was brought to tryal he commends it; you ſhall hear all out of the mouth of the Priſoner, therefore I ſay no more, call the witneſſes.

Dr. *William Young* ſworn.

*Councell.* Tell my Lords and the Jury what the Priſoner at the Barre has declared to you concerning the contrivance of bringing the King to Tryal.

Dr. *Young.* My Lords and Gentlemen of the Jury, It was near about (and that the Priſoner may remember) the moneth of *July* 1648. ſince we came firſt acquainted, when he went over to *Ireland* it was about the Siege of Pembrook Caſtle, but afterwards in the year 1649. we renewed our acquaintance, he went over into *Ireland* with that Uſurper the late Protector, as he was called, after the Town of *Wexford* was taken; coming over he fell ſick of the flux, and ſaid he received it by infection, praying over Captain *Horton.* Coming into *Milford*, that Captain ſends a ſummons to me, to come on board, that was to fetch this priſoner at the Bar, who was ſick. I found him there grovling upon the deck, and ſick he was indeed, with much difficulty we got him on ſhore, within a very few dayes, (to the beſt of my remembrance 5. dayes) I perfected his cure. We became very familiar, I obſerved in him that he had ſome ſecret thoughts that I could not well diſcover, neither well underſtand, whereupon I thought it might tend to my ſecurity that I ſhould ſo much ſympathize with him, to get within him to know his intentions. After ſome weeks, (for he continued with me 10. weeks, or near thereabouts, ſome few dayes rather over then under) we grew ſo familiar, that at laſt I found he began to inlarge his heart to me. Many times I ſhould hear him rail moſt inſufferably againſt the Blood Royal, not only againſt our Martyred King, but againſt his Royal off-ſpring, ſtill as we continued our acquaintance, he became more and more open to me, ſo we would ſit up diſcourſing (till about 12. or 1. of the Clock at night, very often) about theſe unhappy wars late in *England.* At laſt, my Lord, I found him, that he began to tell me how he came into *England*, and upon what account he came out of *New England.* I ſhall deſire that in regard his diſcourſes were various, that I may deliver them orderly, they were delivered to me within the compaſs of 10. weeks, but the dayes &

weeks

weeks I cannot remember. Firſt he told me (diſcourſing of *New England* and the Clergy there, and much of the Clergy here in *England*, and of the buſineſs here of Reformation.) he told me that for the driving on of this intereſt of this Reformation, he was imployed out of *New England* for the ſtirring up of this war and driving of it on, this I ſhall my Lord ſpeak to in the firſt place, and that upon the oath I have taken: and ſecondly, he was pleaſed at another time to acquaint me and that by way of complement, complaining then againſt the Parliament, ſaying, that ſometime after he was come into *Engl.* he was ſent over into *Irel.* by the Parl. to receive further inſtructions to drive on the deſign, to extirpate Monarchy; ſaith he, I did diſpend a great deal of my own money, yet never had that ſatisfaction from them which they promiſed me, that was they promiſed me 2. or 3000 *l.* for my journey, and yet they have given me no more but onely a ſmall pittance of land out of my Lord of *Worceſters* eſtate in *Worceſter ſhire*, I have ſeen his letters directed to his kinſman here in *London*, as I take it, his name was *Parker*, adviſing him for the ſettleing of this land and ſelling it. Thirdly, my Lord, I have obſerved; that by way of vilification of the Monarchical Government, I have found him jocundarily ſcoffing at it, and would ordinarily quibble in this manner, ſaying, this Common wealth will never be at peace till 150. be put down. I asked him what this 150. was, he told me three L's, and afterwards interpreted the meaning to be the Lords, the Levites and the Lawyers, with that ſaid I, we ſhall be like *Swizers*, *Tinkers* and *Traytors*. Now my Lord, we are come to the laſt particular, we diſcourſing thus frequently, & withal he was then a Collonel, and had a Commiſſion under that Uſurper *Oliver*, and brought over his Commiſſion for raiſing of Souldiers to foment that War in *Ireland*; that it was ſo I appeal to the dictates of his own Conſcience, and whether he did not preſs me very importunately to accept of a Commiſſion of Major or a Captain; he did iſſue forth two Commiſſions under his own hand, one of them to bring over from *Devon-ſhire* two foot Companies unto *Cork*. My Lord, becauſe we were militarily affected, amongſt the diſcourſes of our unhappy wars, I know not how it came from him, it being near Eleven years ſince, and I have had many ſufferings incumbent on me, ſo that I may fail in ſome particulars, but in generall thus it was: we were diſcourſing concerning our Martyred King, as then we call'd him, and of his Impriſonment in *Holmeby* Houſe, which I wondered at, thus

we diſcourſt, he told me the ſtory how they had uſed him at *Holmeby*, and at laſt came up to this, when he was taken away from *Holmeby*-Houſe, the Parliament had then a deſign to have ſecured *O. Cromwell* and my ſelf being then in *London*, ſaith he, we having intelligence of it, eſcaped out of *London*, and rode hard for it, and as we rode to *Ware* we made a halt, and adviſed how we ſhould ſettle this Kingdome in peace, and diſpoſe of the King, the reſult was this; They ſhould bring him to juſtice, Try him for his life, and cut off his Head: whether this was the expreſſion of *Cromwel* I cannot tell; but to the utmoſt of my remembrance, and I am miſtaken if it was not the advice of Mr. *Peters* to *Cromwel*, and I believe it, becauſe his former relations of his inſtructions out of *Ireland* did tend to that effect.

*Mr: Soll.* I will ask you this queſtion, we will not preſs you particularly upon your memory, whether *Cromwell* or *Peters* ſaid the words, do you remember he confeſſed to you, they were agreed upon that matter?

*Young.* They did conſult and agree upon it.

Peters. *My Lord, I deſire to ſpeak a word,* (his voice being ſo low he was brought to the ſecond Barr.) *I am the bolder to ſpeak to your Lordſhips at this time a word, and it is high time to ſatisfie my conſcience, if theſe things were true, there is enough ſaid to deſtroy me, I deſire leave to tell you what offence I take at the witneſs, thus my Lord. This Gentleman I do know*——

*Councel.* What ſay you to him?

Peters. *That which I have to ſay is this, that in his ſtory he hath told that which is not true, but I will not finde fault with him, becauſe he was my hoſt, I will not reflect and recriminate, I ſhall give your Lordſhips in ſimplicity as much ſatisfaction my ſelf as any witneſs, this I ſay to the man that ſpeaks, and this is certain, I did indeed ſpend ſome time at this Gentlemans houſe, he is called there* Dr. Young, *and my trouble at this diſcourſe is this, I do not know my Lord that I found a more violent man for the Parliament then himſelf; ſo far, he undertook to be a ſpy on one ſide, this I find to be ſo, he will not deny it, he was very fierce in that way, I think words of ſuch a man ought to be little attended to. The ſecond is this, this Gentleman is not a competent witneſs, and that upon a two-fold ground. Firſt, becauſe I know he is under a very great temptation and trouble in this very thing, and it is upon this account, he was put out of his living in the Countrey, and here he came to me to help him in again, and was very*

*very highly offended because I did not do it. Secondly, it is not that I would invalidate his witness, but give mee leave to tell you, it is his way to snap and catch at every man, which is the complaint of the people in his own country. I know that same which is spoken is false, I speak it in the presence of God, I profess I never had any near converse with* O. Cromwel *about such things, I speak this to the Jury, that they would have a care of the witness, I was in sickness then, those that have known me, do know likewise I have much weakness in my head when I am sick, and to take words that are spoken in a sick condition he ought not to do it, for the words themselves I do here profess against them, for the generality of them, and that he hath been freer in my judgement in any communication this way then I have been; it is marvellous, here I profess the things untruths, I call God and Angels to witness they are not true. I will give you an account of my whole condition by and by, if I may be heard*

*Court.* You shall be heard at large, that which you have been heard now, is concerning the competency or incompetency of the witness; the incompetency against him is this, that when you came thither none more violent for the Parliament then himself, and that he was a great spie, and you say it is usual with him to take such courses; these are but words, if you have any witnesses we will hear them, the man may be traduced and slandered, and so all witnesses may be taken away.

*Court.* Mr. *Peters* if you take this course God knows when this business will end, if you have a mind take pen, inck and paper, and take notes of the witnesses, and make exceptions to them one after another. But interrupting one and so another, we shall never have done.

*Young.* I do recollect my self of some other conferences between us, as to my being malicious, I know he never did me any wrong, and therefore I cannot be malicious, and as for my reputation, having resided two years in *London*, I can have certificates both from my Countrey, and some of this City to vindicate me in that particular. But my Lord, that which I would inform your Lordship is this, he told me he took Duke *Hamilton* a prisoner himself in his own Chamber, seized on his goods, and took his George and Blew ribband off his shoulder, and this George he shewed me.

*Wybert Gunter* Sworn.

*Councel.* Mr. *Gunter* what can you say concerning a meeting and consultation at the Star in *Coleman-street*?

*Gunter.* My Lord, I was a Servant at the Star in *Coleman-street* with

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one Mr. *Hildeſley*, that houſe was a houſe where *Oliver Cromwel* and ſeverall of that party did uſe to meet in conſultation: They had ſeverall meetings, I do remember very well one among the reſt, in particular, that Maſter *Peters* was there, he came in, in the afternoon about four a clock, and was there till ten or eleven at night I being but a Drawer could not hear much of the diſcourſe, but the ſubject was tending towards the King after he was a priſoner, for they called him by the name of *Charles Stuart*: I heard not much of the diſcourſe, they were writing, but what I know not: but I gueſſed it to be ſomething drawn up againſt the *King*, I perceived that Mr. *Peters* was privie to it and pleaſant in the company.

*Court.* How old were you at that time?

*Gunter.* I am now thirty years the laſt *Bartholomew* day, and this was in 1648.

*Court.* How long before the King was put to death?

*Gunter.* A good while; it was ſuddenly, as I remember, three dayes before *Oliver Cromwel* went out of town.

Peters. *I was never there but once with Mr.* Nathaniel Fines.

*Councel.* Was *Cromwel* there?

*Gunter.* Yes.

*Councel.* Was Mr. *Peters* there any oftner then once?

*Gunter.* I know not, but once I am certain of it, this is the Gentleman, for then he wore a great Sword.

Peters. *I never wore a great ſword in my life.*

Mr. *Starky* ſworn.

*Starky.* My Lords, in the moneth of *December* before the *King* died, in the beginning of that moneth, and ſo towards the 12. of *January* following, the head-quarters of the Army were at *Windſor*, and Maſter *Ireton* that is dead (who was a generall Officer of the Army) was quartered in my fathers houſe there; and by reaſon of his long reſidence there, being about two moneths, (his wife was there too) My Lords, this Gentleman Mr. *Peters* he likewiſe quartered in another place in that town, and *Cromwell* himſelf was quartered at one Maſter *Bakers* that lay low in the town, ſo that in truth, my fathers houſe being near the Caſtle, and there being in it a large room, and in reſpect that Mr. *Ireton* was quarter'd there, uſually the Council of War ſate there: My Lords, I was then in the houſe conſtantly, beſides this Council of War which did commonly ſit there, I did obſerve that

*Crom-*

*Cromwel*, *Ireton*, and this gentleman Mr. *Peters*, and one Col. *Rich*, and a fifth perſon whoſe name I have forgot, did uſually meet and conſult together, and would ſit up till two or three of clock in the morning very privately together, this was their uſual courſe when their Council of War ſate, Mr. *Ireton* came in to ſupper, but went out again. There were guards upon them. After this time it happened ſo, that I was often in Mr. *Ireton's* company, where Mr. *Peters* coming to him was very often at meals there, but eſpecially at nights, by occaſion of that.

Mr. *Ireton* being civil in carriage, would uſually entertain diſcourſes with Mr. *Peters*, likewiſe would favour me ſometimes with diſcourſe; and in that diſcourſe, I did many times take occaſion to aſſert the laws in point of the King: And diſcourſing about the King as being a capital inſtrument in the late Inconveniences, as they call'd it, in the times of the warre, Mr. *Ireton* would diſcourſe this ordinarily: I was bold to tell them, that the perſon of the King was *ſolutus legibus*, this Gentleman, the Priſoner at the Barre, told me, It was an unequal law. I did obſerve Mr. *Peters*, that he did bend his diſcourſe not by way of argument only, but in point of reſolution of judgement fully againſt the Perſon and Government of the King. I remember ſome of his expreſſions were theſe, That he was a *Tyrant*, that he was a *Fool*, that he was *not fit to be King* or bear that *office*; I have heard him ſay, that for the Office it ſelf (in thoſe very words which ſhortly after came into Print) that it was a *dangerous*, *chargeable* and *uſeleſs* Office. My Lords, the conſtant diſcourſe of this Gentleman at that time was ſuch as he did believe would never be called into queſtion, ſo that it was not a thing that a man was neceſſitated to obſerve by an accident, but it was their full and whole diſcourſe. I will put you in mind of a particular paſſage, When the news came to *Windſor*, that the King was in Priſon at the Iſle of *Wight*, my father whoſe houſe that was, was very much troubled at it; and being an ancient man, was not able to controll his paſſions with reaſon, told my mother, that they (meaning Mr. *Ireton*, &c.) ſhould have no entertainment there, and took the key of the Celler and put it in his pocket; his paſſions being leſſoned, Mr. *Ireton* his wife and another Officer being at ſupper, and afterwards my father ſaid Grace, and as he uſually did, though they were there, he ſaid that uſual and honeſt expreſſion, praying for the King in theſe uſual words, God ſave the King,

King, Prince, and Realm; ſometimes they did laugh at it, but never did reflect upon him, but this night he made this expreſsion, God ſave the Kings moſt excellent Majeſty and preſerve him out of the hands of all his enemies: *Peters* who was then at the Table, turns about to him and ſaid, Old Gentleman, your *Idol* will not ſtand long: I do conceive he meant it of the King. For a matter of two moneths of the conſtant reſidence and being of the Army there, I did obſerve that in the general Council there, and in this private Caball (after the buſineſſe was broke out, and when the King was taken priſoner and carried to *Windſor*) Mr. *Peters* was the conſtant man; and when the buſineſſe broke out, I looked upon it in reaſon that *Cromwel*, *Ireton*, and this Gentleman at the Bar, and *Rich*, and that other Gentleman whoſe name I have forgot, that they were the perſons that did the buſineſs. My Lords, Mr. *Peters* he continued at *Windſor*, I remember very well, that after the body of the Army, the General and the Officers of the Army were gone to *London*, he continued in *Windſor*: I remember a paſſage of one *Bacon* who was a Sectary, Mr. *Peters* being in diſcourſe of the King, Mr. *Bacon* took great diſtaſte at Mr. *Peters* for ſome affront put on the King: Mr. *Peters* falls upon him and railes at him, and was ready to beat him: we underſtood it ſo, becauſe he did tell him of his affronting the King.

*Coun.* Mr. *Peters*, If you have any thing to ask this Witneſs, you may.

Peters. *I have many things to ask him. Did I ever lye there?*

*Starky.* No.

Peters. *Did you ſee me there at three of the clock in the morning?*

*Starky.* I have ſeen you go up at ten a clock at night to *Mr. Iretons's* chamber, and ſometimes I underſtood you did not go away till four a clock in the morning; I went to bed, its true, but I underſtood it ſo.

*Thomas Walkeley* ſworn.

*Councill.* Give your teſtimony what conſultations you have had with the Priſoner at the Bar.

*Walkeley.* I came out of *Eſſex* in at *Aldgate*, juſt as I came in, a Proclamation was read for Tryal of his late *Majeſty*, I went down the next day to the Painted Chamber at *Weſtminſter*, where I ſaw *Oliver Cromwel*, *John Goodwin* and *Peters* and others; *John Goodwin* ſate in the middle of the table, and he made a long ſpeech or prayer, I know not whether, but *Mr. Peters* ſtood there: after *John Goodwin* had done his prayer, it was deſired that ſtrangers might avoid the room,

room (then came up *Cook*, and *Doriſlaus*, and *Humphreys*, and *Ask* and *Dendy*, and ſeveral others, and ſtood by *Bradſhaw* at the upper end of the Table) But Cromwel ſtood up and told them it was not neceſſary that the people ſhould go out, but that was overruled, and ſo I went out and ſtaied their riſing, and ſaw this Gent. Mr. *Peters* come out with them. After that, when the King was brought to Town a priſoner, the Lord *Carew*, a very honourable perſon, meeting with me, ſaith he, *Walkeley*, if you will ſee your old Maſter, go now, or elſe it may be you will never ſee him. Where is he my Lord? ſaid I, ſaith he, he is coming on this ſide *Brainford*. I went to the farther end of *St. James* Corner, and there I met ſome of the Army coming, and then I ſaw his Majeſty in his Coach with 6. horſes, and *Peters* like Bp. *Almoner* riding before the King triumphing, then after that, in *St. James-Park*. I ſaw *Peters* marſhalling the Souldiers, and I was forced to go about. My Lord, this is all I can ſay concerning that, I remember one thing further of him, I heard him in *Weſtminſter-hall* ſay, within a year or two after the Army was raiſed, If we can keep up our Army but 7. years longer, we need not care for the King and all his poſterity.

Mr. *Proctor* ſworn.

*Pr.* I having occaſion to go from *London* to *Windſor*, the day that the King was brought from thence a priſoner, a little on this ſide *Brainford*, I ſaw great troopes of horſe, I did conceive what the cauſe was, having heard the King was to be brought up to his tryal, after I had paſſed ſome number of horſes, at laſt I eſpied the priſoner at the Bar immediately before the Kings Coach, ſingly riding before the Coach-horſes, and the King ſitting alone in the Coach. My Lord, I did put off my hat, and he was graciouſly pleaſed to put off his hat, the Troopers ſeeing this, they threw me into the ditch horſe and all, where I ſtaied till they paſſed by, and was glad I eſcaped ſo.

*Hardwick* ſworn.

*Counsel.* When the Proclamation was read in *Weſtminſter* hall for tryal of the King, did you ſee Mr. *Peters* there?

*Hard.* I was in the hall when that ugly Proclamation was proclaimed, where I ſaw *Dendy*, *King*, and that Gent. the priſoner at the Bar in the hall; After the Proclamation was proclaimed, the priſoner at the Bar came out into the Palace-yard and told them, Gent. ſaith he, (a great many Officers Souldiers being there) all this is worth no-

thing unleſs you proclaim it in Cheapſide, and at the old Exchange.

*Councel.* Explain your ſelf, what Proclamation do you mean?

*Har.* The Proclamation for the high Court of Juſtice.

*Holland Simſon* ſworn.

*Coun.* What do you know concerning the priſoner at the Bar?

*Simſon.* I do know Mr. *Peters* very well, I have known him theſe 12. or 13. years. When the high Court of Juſtice was ſitting, both in the Court and painted Chamber I ſaw this Gent. in conſultation there and at ſeveral other places, at Sr. *William Breretons*, and otherwhere.

*Coun.* Did you ſee him at the tryal?

*Simſon.* I ſaw him, but not as a judge, There was one day in the Hall Collo. *Stubbards*, who was Adjutant General (he was a very buſie man) and Collo. *Axtel.* Mr. *Peters* going down the ſtaires, comes to him and bids *Stubbards* to command the Souldiers to cry out Juſtice Juſtice againſt the Traitor at the Bar.

*Coun.* Who did he mean?

*Sim.* The King was at the Bar at the ſame time, whereupon my Lord, the Soldiers did cry out upon the ſame, and as the King was taken away to Sr. *Robt. Cottons*, ſome of them ſpit in the Kings face, but he took his handkercher, wiped it off and ſmiled.

Peters. *I do not know this Gent. did he ever ſee me?*

*Simſ.* Yes, divers times in the Painted-Chamber, at Sr. *William Breretons*, at the Deanery in conſultation with *Bradſhaw*, and you were admitted and no man elſe as I know, unleſs Sr. *Will. Brereton* who came along with you.

*Thomas Richardſon* ſworn.

*Richardſon.* My Lords, the firſt day that this Court of Juſtice (as they called it) did adjourn, I went up into the Court, and I ſaw the Priſoner at the Bar with ſome more ſtanding in the Court, and I came and ſtood cloſe by him, and ſome with him whom I did not know, I heard him commend *Bradſhaw*, the carriage of him in the tryal of the King, and another, *Cookes* carriage: to be ſhort, Mr. *Peters* holding up his hands, ſaid, this is a moſt glorious beginning of the work.

Sir

Sir *Jeremy Whitchcot* Sworn.

*Wh.* My Lords, I have by accident, not by choice been ſeveral times in Mr. *Peters* company, truely I have heard him ſpeak very ſcurrilouſly of the King, among the reſt, he was making ſome kinde of Narration of *Crom.* making an eſcape, and that he was intended to be ſurprized, that if he had not preſently gone away, he had been clapt up in the Tower and declared a Traitor, he ſaid there was a meeting of the Officers of the Army, where he uſed this expreſſion, *And there we did reſolve to ſet aſide the King.* My Lord, after this (it was at another time) he was ſpeaking of that they called the High Court of Juſtice, and I do very well remember this was his expreſſion of it, I cannot but look upon this Court with a great *reverence*, for it doth reſemble in ſome meaſure the tryal that ſhall be at the end of the world by *the Saints.* This is all that I perfectly remember. It was a great while a-goe, I cannot ſpeak more punctually, I have ſeldome heard him ſpeak of the King, but of the Tyrant, I remember one time he was ſaying he would have preached before the King, but ſaid he, the poor wretch would not hear me.

*Rich. Nunnelly* Sworn.

*Councel.* Was *Peters* upon the Scaffold at the time of Execution or before?

*Nun.* On that unhappy day 30. *Jan.* 1648. This *Hugh Peters* came an houre before the King came to *Whitehall*; I came with a warrant of 40. or 50000. l. to *Oliver Cromwel* being door-keeper to the Committee of the Army, *Nunnelly*, ſayes *O. Cromwel*, will you go to *Whitehall*? Surely you will ſee the Beheading of the King, and he let me into *Whitehall*, coming into the boarded Gallery, I met *H. Peters*, and he was in the Gallery, and then I got with *H. Peters* into the Banqueting-houſe, being there, *H. Peters* met one *Tench* of *Hounsditch* that was a Joyner, meeting him, he ſpeaks to him and whiſpers in his ear and told him ſomewhat, I do not know what it was, but *Tench* preſently after went and knocked 4. ſtaples upon the Scaffold, I meeting *Tench* again, what art thou doing ſaid I? what will you turn hangman? ſayes he, this day will be a happy day; ſaid I, pray God ſend it be not a bloody day, upon that *H. Peters* went upon the Scaffold juſt an houre before the King came, and then he went off again, I watched

at the window, when the Kings head was cut off, and afterwards I ſaw the Vizards going into a Chamber there, about an houre afterwards ( I ſtaying there at the Door ) there comes *H. Peters* in his black Cloak and broad Hat out of that Chamber ( as *I* take it) with the Hangman, *I* am ſure *I* did ſee him go along with the Hangman to take water ; this is all I can remember, it being many years ſince.

Peters. *I humbly beg I may be heard in this caſe, I have here a witneſs, and deſire he may be examined ; it is noiſed I was upon the Scaffold, I here call God to witneſs,* I *was not out of my Chamber that day,* I *was ſick that day,* I *ſpeak in the preſence of the Lord.*

*Court.* If your witneſs will ſtay he ſhall be heard, there are more witneſſes to the ſame thing, and ſo he may ſpeak to all together.

Dr. *Mortimer* Sworn.

*Mortimer.* Me Lar, me ha ſerd de King, &c.

*Court.* We cannot underſtand a word.

*Councell.* He is a Frenchman, my Lord.

*Court.* Pray let there be an interpreter.

One Mr. *Young* was ſworn to interpret truly his evidence.

But it being afterwards found difficult and troubleſome, the Councel waved his evidence, and prayed another witneſs might be called.

Dr. *Mortimer.* Me Lar, me can ſpeak Engliſh —

*Councel.* No, no, pray ſit down, we will examine other witneſſes, call *Stephen Clough.*

*Stephen Clough* Sworn.

*Councell.* What do you know of *H. Peters?*

*Clough.* My Lords and Gentlemen of the Jury, in 1648. I heard of a meeting of the Councell of Officers at *Weſtminſter,* I think in the Painted Chamber, and I willing ( my Lord ) to hear what their conſultations were, I went thither, and was there as one of them, ( but I was not one, ) amongſt the reſt *H. Peters* was one, when the room was pretty full the door was ſhut, Mr. *Peters* deſired to call for a bleſſing upon their buſineſs, in his prayer he uttered theſe words, O Lord, ( ſaith he ) what a mercy it is to ſee this great City fall down before us ; and what a ſtir is there to bring this great man to tryal, without whoſe blood he will turn us all into blood if he reign again!

Peters. *What day was this?*

*Clough.*

*Clough.* It was about three weeks or a month before the King dyed.

Peters. *Where was this?*

*Clough.* In the Painted Chamber.

Peters. *You have been very bold.*

*Clough.* I ſpeak it upon my oath.

Peters. *How long was this agoe?*

*Clough.* In 1648.

Peters. *How many years ſince is that?*

*Clough.* You know your ſelf ſure how many years ſince 1648.

Peters. *How long before the King dyed do you ſay?*

*Clough.* About three weeks or a month before the King was murdered.

*Councell.* We ſhall call a witneſs to prove, that in *December* 1648. there was a ſolemn faſt appointed to ſeek God in what they were about, and Mr. *Peters* was appointed to preach before them.

## Mr. *Beaver* Sworn.

Mr. *Beavers* Evidence. My Lord, and you Gentlemen of the Jury, upon a day that was appointed for a Faſt for thoſe that ſate then as a Parliament, I went to *Weſtminſter* to find out ſome company to dine with me, and having walked about an houre in *Weſtminſter* Hall, and finding none of my friends to dine with me, I went to that place called Heaven and dined there; after I had dined, I paſſed through Saint *Margarets* Church-yard to go home again, (I lay in the *Strand*,) I perceived all the Church-yard full of Muskets and Pikes upon the ground, and asked ſome Souldiers that were there, what was the buſineſs? they told me they were guarding the Parliament that were keeping a Faſt at St. *Margarets*; who preaches ſaid I? they told me Mr. *Peters* is juſt now gone up into the Pulpit, ſaid I, I muſt needs have the curioſity to hear that man, having heard many ſtories of the manner of his preaching, (God knows I did not do it out of any manner of devotion) I crouded near the Pulpit, and came near the Speakers Pew, and I ſaw a great many of the Members there, whom I knew well: I could not gueſs what his Text might be, but hearing him talk much of *Barabbas* and our Saviour, and inſiſting altogether upon that, I gueſſed his Text was that paſſage, wherein the *Jews* did deſire the releaſe of *Barabbas* and crucifying of Chriſt; and ſo it proved, the firſt thing

I heard him ſay was, it is a very ſad thing that this ſhould be a queſtion amongſt us, as among the old *Jews*, whether our Saviour Jeſus Chriſt muſt be crucified or that *Barabbas* ſhould be releaſed, the oppreſſor of the people: O Jeſus ſaid he, where are we that that ſhould be a queſtion amongſt us? ſayes he, And becauſe that you ſhould think my Lords and Gentlemen, that it is a queſtion, I will tell you it is a queſtion; I have been in the City, which may very well be compared to *Hieruſalem* in this conjuncture of time, and I profeſs thoſe fooliſh Citizens for a little trading and profit they will have *Chriſt* (pointing to the *Redcoats* on the Pulpit ſtaires) crucified, and that great *Barabbas* at *Windſor* releaſed, ſayes he, but I do not much heed what the rabble ſayes: I hope ſayes he, that my brethren of the Clergy will be wiſer, the lips of the Prieſts do uſe to preſerve knowledge, I have been with them too in the Aſſembly, and having ſeen and heard what they ſaid, I perceive they are for crucifying of Chriſt and releaſing of *Barabbas*, O Jeſus what ſhall we do now? with ſuch like ſtrange expreſſions, and ſhrugging of his ſhoulders in the Pulpit.

*Councel.* How long was this before the King was murdered?

— It was a few dayes before the houſe of Commons made that thing called, An Act for his Tryal.

*Councel.* What did he ſay to the Members?

— I am coming to it, ſayes he, my Lords and you noble Gentlemen of the Houſe of Commons, you are the Sanhedrim and the great Councel of the Nation, therefore you muſt be ſure to do Juſtice, and it is from you we expect it; you muſt not only be inheritours of your Anceſtors, but you muſt do as they did, they have oppoſed Tyrannical Kings, they have deſtroyed them, it is you chiefly that we look for Juſtice from. Do not prefer the great *Barabbas*, *Murderer*, *Tyrant*, and *Traytor* before theſe poor hearts (pointing to the *Redcoates*) and the Army, who are our Saviours, and thus for two or three houres time that he ſpent, he did nothing but rake up all the reaſons, arguments and examples he could to perſwade them to bring the King to condigne, ſpeedy and capital puniſhment.

Peters. I *do not know you, are you ſure you ſaw me at that time? Do you know me?*

— Yes Sir.

Peters. I *did not preach there at that time.*

*Councel.* Pray my Lord will you call Mr. *Jeſſop*, who hath the Records

cords of the Parliament, and can produce the Order, whereby you were appointed to carry on the work of that Faſt, there was the Order for his preaching, and Order for thanks for his work.

*Mr. Jeſſop* produced the Journal, wherein was the Order following, which was read.

Cla. *reads*, Die Jovis 7. Septemb. 1648. *Reſolved that there be a day of publick Humiliation, for this Houſe to ſeek God in theſe times of difficulty, and that to morrow be the day and kept here in this Houſe. Reſolved that Mr.* Peters, *Mr. Marſhall and Mr.* Carill *be deſired to perform the duty on the day of Humiliation with the Houſe to morrow.*

*Councell.* That is not it we intend, there was one after that in *December* 1648.

Clar. *reads.* 20 Decemb. 1648. *Ordered that Mr.* Peters *be deſired to preach on Friday next, the day of publick Humiliation at Margarets* Weſtminſter, *in the place of* ——

*Councell.* Call *Mr. Chaſe.* After this the work went on, and the High Court of Juſtice ſate; and the firſt day they ſate was Saturday the 20. *Jan.* in *Weſtminſter* Hall, the 21. being the Sunday following, *I* think this Gentleman was at *Whitehall*, he will tell you what he preached.

Mr. *Chaſe* ſworn.

*Chaſe.* My Lord, I heard the Priſoner at the Barr preaching before *Oliver Cromwell* and *Bradſhaw*, who was called Lord Preſident of the high Court of Juſtice, and he took his Text out of the *Pſalms*, in theſe words, *Binde your Kings with chains, and your Nobles in fetters of iron*; that was part of the Text: But ſayes he in his Sermon, Beloved, it is the laſt Pſalm but one, and the next Pſalm hath ſix verſes and twelve Hallelujahs, Praiſe ye the Lord, Praiſe God in his ſanctuary, and ſo on; for what ſayes he? look into my Text, there is the reaſon of it, That Kings were bound in chains, *&c.* He went on with a ſtory of a Major and a Biſhop and his man, the Biſhops man ſaith he, being drunk, the Major laid him by the heels, the Biſhop ſends to the Major, to know by what authority he impriſoned his ſervant, the Majors anſwer was, there is an Act of Parliament for it, and neither the Biſhop nor his man are excepted out of it: and applyed it thus, Here is ſaith he, a great diſcourſe and talk in the world, what? will ye cut off the *Kings* head, the head of a Proteſtant Prince.

Prince and King? turn to your Bibles and you ſhall finde it there; *Whoſoever ſheds mans blood, by man ſhall his blood be ſhed*, ſaies he, I will even anſwer them as the Major did the Biſhop, here is an Act of God, Whoſoever ſheds mans blood, by man ſhall his blood be ſhed; and I ſee neither *King Charles*, nor Prince *Charles*, nor Prince *Rupert*, nor Prince *Maurice*, nor any of that *rabble* excepted out of it. And further he ſaid, This is the day that I and many ſaints of God beſides have been praying for theſe many years.

*Peters. Ask him whether he took notes.*

*Chaſe.* No Sir, but it being ſo memorable a Sermon, I took ſpeciall notice of it, I came to my Brothers houſe at *Shoolane*, and told him; ſaid I, Brother, I have been at *Whitehall*, and have heard the moſt execrable buſineſs that ever was heard in the world by a Miniſter of the Goſpel, and I told him the words; I obſerved that *Oliver Cromwell* did laugh at that time when you were Preaching.

*Tho. Tongue* ſworn.

*Councel.* What do you know of the Priſoners preaching?

*Tongue.* Upon *Jan.* 21. 1648. I was at *Whitehall* where this Gentleman preached, and he preached upon this Text, 149. *Pſal. v.* 8. To bind their Kings in chains, and their Nobles in links of iron, in which Text this *Peters* did much applaud the ſouldiers there, he ſaid he hoped to ſee ſuch another day following as the day before, and that bleſſed be God (ſaies this Parſon *Peters*) the Houſe, the lower Houſe is purged, and the Houſe of Lords themſelves they will down ſuddenly, this is all that I well remember at that time. Upon the 28. of *Jan.* 1648. next day after ſentence of the King, I heard *Peters* preach upon this Text in S. *James's* Chappel, 149. *Pſal.* 6, 7, 8, 9, verſes. *Let the high praiſes* of God be in their mouth, and a two edged ſword *in their hands*, to execute vengeance upon the heathen, and puniſhments *upon the people*, To bind their Kings with chains, and their Nobles with *fetters of Iron*, *To execute upon them the judgement written, this honour* have all his Saints, praiſe ye *the Lord*: And there he did ſo ſaint the Redcoats, and ſo reprobate the poor Kings friends. And in the middle of his Sermon he took occaſion to produce a Text 14. Eſay 18, 19, 20. *All the Kings of the Nations even all of them lie in glory, every one in his own houſe. But thou art caſt out of thy grave like an abominable branch, and as the raiment of thoſe that are*

*ſlain*

*ſlain, thruſt through with a ſword, that go down to the ſtones of the pit as a carcaſſe troden under feet, Thou ſhalt not be joyned with them in buriall, becauſe thou haſt deſtroyed thy land, and ſlain thy people, the ſeed of evil doers ſhall never be renowned:* ſaies he, This I did intend to inſiſt and preach upon before the poor *wretch*, and the *poor wretch* would not hear me.

*Councel.* Who did he mean?

*Tongue.* His Majeſty, who was the day before condemned, ſaith he, look in your leſſer Bibles, and you ſhall finde the title is, The *Tyrants fall.*

*Councel.* That that was ſpoken of the King of *Babylon*, the ignominy that was caſt upon him, he applies it to the King of *England.*

*Peters. Ask him where it was?*

*Tongue.* It was in S. *James's* Chappel, Sunday the 28. of *Jan.* 1648. in the forenoon.

*Reynold Bowdler* ſworn.

*Bowdler.* That which I have now to ſay is this, I did hear him a few dayes before the King was murthered, preach in S. *Sepulchers* Church, there he compares the King that was then to dye to *Barabbas* a murderer, and in this manner, Saith he, there is a great company amongſt us, like the Jews, they cry out, Let *Chriſt* be crucified. and let *Barabbas* be releaſed, ſtill comparing the King to *Barabbas* the murtherer, theſe were his words, with many more to the ſame purpoſe.

*William Ryder* ſworn.

*Councel.* Speak what you know concerning the Priſoner.

*Ryder.* I was at the ſame time at Church in *S. Sepulchres.*

*Councell.* How long was that before the King dyed?

*Ryder.* It was very near the Kings death.

*Councel.* Was it after thr High Court of Juſtice ſate, as they called it?

*Ryder.* About that time it was. My Lord, aſſoon as ever he had read the words of his Text, which was, *He ſhall call his name Emanuel*, he preſently ſhook hands with his Text, and fell (as he was wont) to news, and there he ſaid, the great inquiry now is to know

what ſhould become of the King, let that alone, ſaith he, and preſently he falls to it again, and was pleaſed to ſtile the King *Barabbas*, ſaith he, there is a great many of people had rather *Chriſt* ſhould be crucified then *Barabbas*, and here he was applauding the Souldiers, and ſaid that *Emanuel* was written upon the bridles of their horſes, and he was ſpeaking of the Kings Souldiers, ſaith he, I have known eighty thouſand of them, and not one of them a gracious perſon.

*Councel.* Now we expect the Anſwer of the priſoner at the Bar, the Indictment hath been fully proved.

Peters. *I deſire that witneſs may be admitted which I ſpoke of, his name is* Cornelius Glover.

*Councel.* We have omitted one evidence, we deſire Maſter *Walker* may be called.

Mr. *Walker* ſworn.

*Walker.* One Sunday after the King was firſt brought to his tryal, out of curioſity, I went to hear Mr. *Peters* at *Whitehall*, after he had made a long prayer, ſaith he, I have prayed and preached theſe twenty years, and now I may ſay with old *Symeon*, *Lord now letteſt thou thy ſervant depart in peace, for mine eyes have ſeen thy ſalvation*, Afterward he ſpeaks of the Text, of *binding their Kings in chains, &c.* then much reviled the King: but ſoft there, ſaith he, I muſt not talk ſo here, I am in the Kings Chappel: there is a very remarkable paſſage in *Amos*, *Amos* went to preach, and *Amaſia* would not let him; but *Amos* would preach, the *poor wretch* would not hear me, but yet I will preach. Afterwards he ſpeaks of the *Major* of *Exeter* that committed the Biſhops ſervant for beink drunk, ſaith the Major, here is an Act of Parliament for it, and I do not ſee that the Biſhop nor his man are either of them excepted out of the Act: and ſaith he, in Scripture it is ſaid, *Whoſoever ſheddeth mans blood, by man ſhall his blood be ſhed*; and I do not finde that either King *Charles*, Prince *Charles*, Prince *Rupert*, Prince *Maurice*, or any of that rabble are excepted.

*Councel.* Now Mr. *Peters* you may call your witneſs.

*Cornelius Glover*, not ſworn.

*Lord chief Baron.* Where do you dwell?

*Glover.* In *Pauls* Church-yard.

*Sir O.B.* What is your quality of life?

Peters. *A ſervant of the Kings.*

*Sir O.B.* I do not ask you Mr. *Peters.*

*Glover.* I belong to the Poſt-houſe.

Peters. *Pray hear him ſpeak.*

*Sir O.B.* What would you have him asked?

Peters. *Whether* I *was out of my Chamber that day the King ſuffered?*

*Sir O.B.* What ſay you to that?

*Glover.* I was come to Mr. *Peters* a little before that time to live with him as his ſervant, it fell out that day he was ill in his chamber all the morning, the Souldiers in S *James*'s-houſe were all gone away, I had a deſire to go ſee the meeting where they were at *Whitehall*, ſaith he, thou ſeemeſt to have a great deſire to go and look about thee, it is very ſad, but if you will go you may. I did go over the Park.

*Councell.* What time?

*Glover.* About noon.

*Councel.* What houre?

*Glover.* I do not know. I did not ſtay there, the ſouldiers and the people fill'd the place, and I went back again to the Chamber, I came back again within a matter of an houres time.

*Councel.* Was the King dead before you came back again?

*Glover.* They ſaid he was not, when I went home he asked me what was doing? I told him there was a great croud, I could not come near: I ſtaid there an houre, and then went out again, and ſtill there was a croud, and I came back again and Mr. *Peters* was in his chamber then.

*Councel.* Was he in bed, or up?

*Glover.* I do not remember.

*Councel.* How old were you then?

*Glover.* I am not above 32. or 33.

*Councel.* Was Mr. *Peters* ſick?

*Glover.* Yes, He was melancholly ſick, as he uſed to be.

*Sir O.B.* How long have you been at the Poſt-office?

*Glover.* About five years.

*Sir O.B.* Mr. *Peters* have you any more to ask him?

Peters. I *brought him to teſtifie that* I *was not out of my Chamber that day, and that* I *was ſick.*

*Sr. O.B.* Did you desire to go, or did he send you?

*G.* I did desire to go being newly come to *London.*

*Sr. O.B.* This Gent. though not upon oath is examined, and it is onely to one particular, nothing at all to the main proofes.

Peters. *I bring him onely to vindicate my self from that aspersion of my being upon the Scaffold.*

*Sr. O.B.* They do not lay the weight of their evidence upon that. The Kings Councel have done with their evidence, if you have any thing to say, you have your liberty.

Peters. *May it please your Lordships, I will give you an account of the business, I lived* 14. *years out of* England, *When I came over I found the wars begun, I began no war, my Lord, nor have been the Trumpeter, when I came out of the West Indies, I fled from the war into* Ireland, *to the Western part there, and it was after the Rebellion when some of the* Irish *had been stirring there, I went and spent my time there. I was neither at* Edge hill *nor* Naseby, *but my Lord, after I came over there was wars, that the people were engaged in, I was not here in the beginning of it, but was a stranger to the carriage of it. When I came into the Nations I looked after three things, one was, that there might be sound Religion, The second was, that learning and Laws might be maintained, The third, that the poor might be cared for, and I must confess I have spent most of my time in these things, to this end and purpose; there was a noise in all parts of some miscarriages in matters of Religion, after it was setled I lived in* Ireland, *I must profess for my own part solemnly that my carriage hath been upon these heads. For Religion I have, through Gods mercies, spoke the truthes of the Protestant Church, upon this account I did stay to see what God might do, I was sent over to his Majesty that we might have a little help in point of Excise and Customes and encouragement in learning. My Lord, this is true, that I being here in the Nation, and being sent over upon the occasions of the Countrey, and not upon any designe, but this I say, (I cannot deny it) that after I came over, and had seen the state of* England, *in some measure I did stir, but by strong importunites, the Ministers of* London *deeper then I: I am very sorry to hear of my carriage towards the King, it is my great trouble, I beg pardon for my own folly and weaknesse, I thought God had a great controversie with the Nation, and the Lord was displeased on all hands, that which some people took to, I did take unto, I went into the Army, I saw at the beginning of it, that corruptions grew among them, I sup-*

pose

*poſe none can ſay I have gone aſide from any Orthodox truth of the Lord:*
*And now to take off the ſcandal upon me, and to the buſineſſe, let me beg of*
*your Lordſhips to conſider whatever prejudices or revenge may take up*
*m.ns hearts, there is a God that knows all, God hath a regard to the peo-*
*ple of* England. *I look upon this Nation as the Cabinet of the world, That*
*that doth concern the buſineſſe is this, my Lord, that after this time hither*
*I came, and did bear witneſſe to all the world that there was amongſt us*
*ſomething that was for better, and ſome thing worſe for the Nation, I*
*took advice of ſome great perſons concerning the weightineſſe of it, I had*
*neither malice nor miſchief in my heart againſt the King, upon this I*
*did ingage ſo far as being invited, I went into the wars, and there I found*
*very ſtrange and ſeveral kinds of providences, as this day hath been ſeen;*
*I do not deny but that I was active, but not to ſtir in a way that was not*
*honorable. I challenge a great part of the Nations to manifeſt my carri-*
*age among them, I ſhall make it good divers wayes, I had ſo much re-*
*ſpect to his Majeſty particularly at* Windſor, *that I propounded to his*
*Majeſty my thoughts three wayes to preſerve himſelf from danger, which*
*were good as he was pleaſed to think, though they did not ſucceed, and the*
*work died; as for malice, I had none in me. It is true, there was a dif-*
*ference amongſt us, an Army and an Army, I never had a groat or a pe-*
*ny from* O. Cromwel *ſince I knew this place, I profeſs I have had no*
*ends for honour or gain, ſince I ſet foot upon this ſhore, I challenge a-*
*ny man that belonged to that party, whether they had not the ſame re-*
*ſpect from me as my own party, I have not perſecuted any with*
*malice, I will onely take off malice.*

*Sr. O. B.* Your buſineſſe is matter of fact.

Peters. *I am unskilful in Law, this that I offer, is to ſhew that*
*I had no malice in me, I was ſo far from malice, that I have a Certifi-*
*cate, if worth the reading from one of the Eminenteſt perſons in the Na-*
*tion, to ſhew I had no malice. It is concerning the* Marques *of* Worceſter
*under his Ladies hand, beginning with theſe words,* I do here teſtifie that
in all the ſufferings of my huſband, Mr *Peters* was my great friend &c.
*I have here a ſeal, (and then produced it) that the Earl of* Norwich
*gave me to keep for his ſake, for ſaving his life, which I will keep as long*
*as I live.*

*Sr. O.B.* I am not willing at all to interrupt you, or hinder you, that
which you ſpeak of doing good ſervices is not at all to the point, we
do not queſtion you for what good you have done, but for the evil

you

you have done, I hope there is no malice in your heart, nor upon the Court nor Jury, we and they are upon our oaths, you hear the matter alledged againſt you, pray come to the matter.

Peters. *My Lord, I cannot remember them.*

*Lord chief Baron.* Then I will remember you, you are charged by this Indictment for compaſſing and imagining the death of the King, and there is ſet forth ſundry particulars to prove the overtfact, that you with other perſons named in that Indictment, did conſult and meet together, how to bring about the Kings death. Then you are charged with ſeveral Acts of contriving and endeavouring the Kings death. Overtacts that tend to the compaſſing or imagining the Kings death, or any one of theſe, to encourage the bringing on the King to his death, the conſulting or meeting together about it, though you did not fit or ſentence; yet if you did any thing tending to that incouragement, or otherwiſe abet it, comfort or any wiſe aide thoſe trayterous perſons that did it; in the doing of it you are by law guilty of the whole fact: the propoſing and determining the King ſhall die, though you were not he that actually put him to death, yet notwithſtanding, if you did the other, you are guilty of all; if you ſhall ſpeak any ſeditious ſpeaches, be they in the Pulpit or out of the Pulpit, if you ſhall utter any thing that tends to ſedition, theſe are open acts which prove the imagination of the heart, though imagination of the heart be Treaſon, yet it cannot be proved but by open acts, yet the imagination it ſelf is Treaſon; firſt you did conſpire, all the witneſſes go along to prove this. Dr *Young* ſaith, you came over from *Ireland* to his houſe, and after five dayes that you were recovered of the Flux, you ſtaid there Ten weeks, you ſaid your ſelf, there was enough if it were true, to condemn you or any man: I ſhall repeat it to you, you told him a narrative, that you came from *New England*, from thence to *Ireland*, and then you came to *Holland* with an intent to ſee how you might bring on the Kingdome to be a Commonwealth: next he ſaith, you ſpake very often againſt the King by way of diſgrace againſt him and his family, againſt the King and his off-ſpring, this you ſaid very often: then you ſpake in vilification of Monarchical Government, that this Commonwealth would never be at peace till 150 or three L's, Lords, Levites and Lawyers were taken away, at which he replyed, then they muſt be all *Switzers*, Tinckers or

or Traytors; he ſwears you were a Collonel, and had a Commiſſion; that you would have had him accept of a Commiſſion, and that you had two Companies come from the Weſt, you told him the Parliament had an intent to ſecure *Cromwel* and your ſelf, but that you rid hard for it, and then you confeſſed you agreed then upon his death, to bring him to tryal, and to cut off his head; you did agree together, and he believes it was your advice to *Cromwel*; your anſwer was this, that he was more violent then your ſelf, that he took upon him to be a ſpie, and that he was no competent witneſſe, becauſe he was under a temptation, becauſe you did not help him to his living, and ſo conceived it to be malice; you ſay, he was uſed to take up ſuch courſes in his own Country, the matter is not whether you had malice to the Kings life or Monarchy. For the next, one *Gunter*, he ſwears, that he was a Servant to Mr. *Hildeſly* at the *Star* in *Coleman-ſtreet*, and this was in 1648. he ſaith, that many of the party of *Cromwel* did uſe to reſort thither, among the reſt he ſaw you, he ſaid he came in to them, and their diſcourſe was about *Charles Steward*, and the Priſoner—and did gueſs it was about the King, that you were privy to it then; he ſaith, this was three dayes before *O. Cromwel* when out of Town, the effect of that is urged no further then this, that you were ſo far of the Cabal, that you were preſent with thoſe perſons, *Cromwell*, *Ireton*, *Rich* and others; you ſaid, I was there once with Mr. *Nathaniel Fines*: *Starkey* he ſaith, that at his fathers houſe *Ireton* lay, and was quartered there at *Windſor*, before and when the King was Priſoner; that you had your quarter there, and *Cromwell* too in that Town: The general meeting of the Councel of War was at his Fathers houſe, there *Ireton* and his wife lying there, you came and reſorted thither very often; he ſaith then, that it appeared that after the Councel of War had done, many times *Rich*, and you, and *Cromwell* and *Ireton* were there together, ſometimes till two a clock in the morning; he ſaith then, that he did obſerve there was a fifth perſon, (he did not remember his name) and you ſate up uſually till two or three in the morning, you had guards about you; he ſaith further, that *Ireton* being a Domeſtick, he often diſcourſed with him, and you came ſometimes to be there too, that there being ſome diſcourſe concerning the K. many times he did aſſert the Law concerning him, that he was *ſolutus legibus* as to his perſon; that you ſhould ſay, that it was an unequal law, and that you did then diſcourſe fully againſt the Kings Government: you

ſaid

ſaid he was a Tyrant and not fit for that office, that the office was uſeleſs, chargeable and dangerous; theſe very words he obſerved, which afterwards were printed, when they took away Monarchy. He ſaith further, that was their full and whole diſcourſe; he ſaith, that his Father at Supper uſed to ſay that uſual Grace, *God ſave the King, Prince and Realm*, but afterwards, that he heard the King was made a Priſoner, that his Father altering the Grace, he ſaid, *God ſave his moſt Excellent Majeſty, and deliver him out of all his Enemies hands*, you roſe up, and ſaid, old Gentleman your Idol will not ſtand long. That he did obſerve you often with them; he ſaith further, when *Bacon* was coming out, and ſpeaking ſome words concerning your frequent affronting the King, you took up a ſtaffe and were ready to beat him, and made an uproar: it appears alſo of your being privy to *Cromwells* actions; the next witneſs is *Walkeley*, and he ſwears this againſt you, that he was in the Painted Chamber the next day after the Proclamation was made, and there he ſaw *John Goodwin* and You, and there was an aſſembly, and at the middle of the table *John Goodwin* was, and made a long ſpeech or prayer, that *Cromwell* would have had the people ſtay there, but it was ordered they ſhould be turned out, at the end he ſaw you come out with the reſt; there it appeared you were in the conſultation; he ſaith, he met the Army at St. *James's*, and there, when they were half paſt, he ſaw the King in his Coach, and there he ſaw Mr. *Peters* like Biſhop Almoner riding immediately before the King; and at *St. James* Park he ſaw you marſhalling the Souldiers, that he was forced thereupon to go about; he ſaith further, that within a year or two after the Army was raiſed, he heard you ſay theſe words, if we can keep up our Army ſeven years longer, we need not care for the King and all his poſterity.

Peters. *My Lord, I muſt deny abundance of this, the King commanded me to ride before him, that the Biſhop of* London *might come to him.*

Sir *O. B.* But this was three weeks after —— The next witneſs againſt you is one *Proctor*, he ſaith, that day (as the other witneſs did) he ſaw you riding juſt before the Kings Coach, and becauſe he did his duty the Souldiers threw him horſe and all into a ditch. The next witneſs is one *Hardwick*, he ſaith, that when the Proclamation was read, he ſaw you in *Weſtminſter* Hall, and that you ſaid, they had done as good as nothing, unleſs it was proclaimed in *Cheapſide*, and at the

the old Exchange, this you ſaid to ſome of the Officers there.

Peters. *My Lord, I cannot acknowledge it.*

Sir *O. B.* The next witneſs againſt you is *Simſon*, he ſwears he ſaw you in conſultation with *O. Crom.* and take Sir *William Brereton* by the hand, and come to *Bradſhawes*, and this during the time of the Kings Tryal; he ſaith further, that one day when the King was at his Tryal you commanded Collonel *Stubbers* to bid his Souldiers cry out, Juſtice, Juſtice, which they cryed, and afterwards ſome of the Souldiers ſpit upon the King.

Peters. *I do believe that he that ſwore that, cannot ſay I was there.*

Another witneſs is one *Richardſon*, who ſaw you the firſt day in the Court; and he ſaid further, that you commended *Bradſhaw* and another, to wit, *Cook*, for their carriage in the tryal of the K. That you held up your hands and laid, this is a moſt glorious beginning of the work.

Peters. *Where abouts in the Court?*

*Richardſon.* In the body of the Court, called then the High Court of Juſtice.

Peters. *My Lord, I do not know that ever I was in the body of the Court.*

Sir *O. B.* The next witneſs is Sir *Jeremy Witchcot*, he ſaith, he heard you often ſpeak ſcurrilouſly of the King, and making a Narrative of *Cromwells* eſcape, you ſaid there was a meeting, and there we reſolved to ſet aſide the King; remember what the other witneſs ſaid; we agreed, and here, we reſolved: you ſaid, I cannot but reverence the High Court of Juſtice, it doth reſemble the judging of the world at the laſt day by the Saints, ſo it was the Saints that ſate there: I would have preached before the wretch, but the poor wretch would not hear me: you often call'd him Tyrant, I cannot poſſibly remember the place, things or words that are alledged. Then you have another witneſs *Nonnelly*, he ſaith he came with a warrant to *O Crom.* for ſome money, and that he ſhould ſay, go and ſee the beheading of the King at *Whitehall*, he ſaith, there he met with you, (though you ſaid you were not there that day) going to the Banqueting houſe, that you ſpoke to *Tench* and whiſpered in his ear, and that *Tench* went and knockt Staples on the Scaffold; he meeting *Tench* ſaid, what are you a Hangman? ſaith *Tench*, this day will be a happy day; he ſaith, after all this *Hugh Peters* was upon the Scaffold, and that he went out with the Hangman —

Peters. I *do profeſs to your Lordſhips before Angels and men, that* I *did not ſtir out of my Chamber that day.*

*Lord Chief Baron.* The Councel doth not put relyance upon that, becauſe of what your witneſs ſaith, though his evidence is not at all ſatisfactory. The next is *Clough*, and he ſwears this, that he ſaw you in the Painted Chamber with the Councel of Officers, and there you deſired them to call on God for a bleſſing upon their buſineſs, and there you ſaid, O Lord what a mercy it is to ſee this great City fall down before us, and what a ſtir is there to bring this great man to tryal, without whoſe blood he will turn us all into blood if he raigne again, and this was about a moneth before the King was murthered.

*Lord Chief Baron.* You hear it Mr. *Peters.*

Peters. *Some part* I *did, but it is impoſſible for me to bear down many witneſſes, indeed my Lord,* I *ſay this, they are marvellous uncharitable, and ſpeak many falſe things.*

*Lord Chief Baron.* The next is this, the teſtimony concerning ſeveral Sermons of yours; and let me tell you, the Pulpit ought not to be a place where men with impunity may ſpeak any thing, what they liſt of Sedition and Treaſon.

Peters. I *am of the ſame judgement my ſelf, my Lord.*

*Lord Chief Baron.* And there was a ſolemn day to ſeek God, then you preached at St. *Margarets* Church, this was Mr. *Bever*, in he came and heard you talk much of *Barabbas* and our Saviour, there you fell upon this, ſpeaking of the King; it is a ſad thing that it ſhould now be a queſtion, whether we ſhould crucifie our Saviour Jeſus Chriſt, or that great *Barabbas*, ſpeaking of the King; you call'd him Traytor, Tyrant, Murtherer of his ſubjects, and the like, you went on in a way of a ſtory, theſe Citizens for a little Trading they will have Chriſt crucified, and the great *Barabbas* at *Windſor* releaſed, and ſaid you, the Clergy, the Aſſembly, they are all for crucifying Chriſt and releaſing *Barabbas*; you made that expreſſion, *O Jeſus, what ſhall we do?* the King was a Priſoner then at *Windſor*, you made your application to the Parliament that was then preſent, you told them the people did expect Juſtice from them, you muſt not prefer the great Tyrant and Traytor, naming the King, to theſe poor hearts (the *Redcoates* ſtanding by.)

Peters. *I muſt profeſs againſt moſt of that.*

*Lord chief Baron.* There is the ſame by others. It is farther proved by the Order that you were appointed to preach.

Peters.

Peters. *I do not deny I preached, but not theſe things.*

*Lord chief Baron.* The next thing is this, there was one Maſter *Chaſe*, this was during the tryall, he ſaith you preached at *Whitehall* upon this text, the 149. *Pſalm, to bind their Kings in chains, and their Nobles in fetters of iron*: you had two or three other verſes more; then you made a diſcourſe of a Major and a Biſhops man, the Biſhops man being drunk, the Major committed him to priſon, the Biſhop being angry, asked by what authority, the Major ſaid, there was an Act of Parliament for it, he did not find that either the Biſhop or his man was excepted, you applyed that to the King, ſaid you, I will ſhew you an act of the Bible, *Whoſoever ſheds mans blood, by man ſhall his blood be ſhed*, this doth not except the King, Prince, Prince *Rupert*, Prince *Maurice*, or any of that rabble.

Peters. *It is falſe.*

*Lord chief Baron.* You ſaid further, This is the day that I and many other ſaints of God have prayed for theſe many years, and *Oliver Cromwel* laughed at that time. The next witneſs was *Tongue* he heard you preach, and he ſwears the ſame with the former, that you applauded the ſouldiers, and that you hoped to ſee ſuch another day following, as the day before, and that bleſſed be God the houſe is purged, and the Lords will be ſhortly pull'd out, and the twenty eighth day of *January*, which was the day after the King was ſentenced, at Saint *James's* Chappel, you took for your text the 149. *Pſalm*, the 6, 7, 8, and 9 verſes, whereof theſe words were part, *To bind their Kings in chains, and their Nobles with fetters of iron*, there in the middle of that Sermon having ſpoken before of the King, you ſaid that you did intend to preach before the *poor Wretch*, upon the 14 of *Iſaiah* the 18, 19, & 20 verſes, ſpeaking of all the Kings of the nations, *Thou art caſt out of thy grave like an abominable branch, &c.* he ſaith further, you ſaid look upon your leſſer Bibles, and you will find the title is, the *Tyrants fall*. There is another witneſs, that is one *Bowdler*, a few dayes before the Kings death at S. *Sepulchres*, there you fell upon the old compariſon, all along you compared the King to *Barabbas*, and that a great many would have Chriſt crucified, and *Barabbas* releaſed, all along comparing the King to *Barabbas*. One more, and that was *Ryder*, he heard this text, *he ſhall call his name Emanuel*, you fell

to ſpeak of news, what ſhall become of the King? and you ſaid the King was *Barabbas*, and a great many would rather have *Chriſt* crucified then *Barabbas*. And then Mr. *Walker* he ſaith, that after the King was firſt brought to his tryall, he heard you ſay this, I have prayed and preached this twenty years, and now may I ſay with old *Simeon*, *Lord now letteſt thou thy ſervant depart in peace, for mine eyes have ſeen thy ſalvation*; he mentions that you made uſe of the other compariſon of the Major and the Biſhops man and inferred from thence, that the *King*, and Prince *&c.* were not excepted out of the Scripture, where it is ſaid, *Whoſoever ſheds mans blood, &c* you have heard all this witneſſed againſt you, what have you to ſay for your ſelf?

Peters, *Theſe are but ſingle witneſſes.*

*Lord chief Baron.* The ſtatute is, two witneſſes for Treaſon, but not two to one individual thing, though there are ſeverall witneſſes have proved the ſame thing about *Barabbas* and our Saviour. Bind their *Kings* with chains, &c. and of your other actions there is a whole Jury of witneſſes, two witneſſes expreſly, we agreed upon the *Kings* death, and we reſolved to ſet the *King* aſide.

Pet. *I do not know the witneſſes.*

*Lord chief Baron.* One is Sir *Ieremy Whitchcot*, the other is Doctor *Young*, you ſhall do well if you have any thing to ſay to invalid theſe witneſſes to ſpeak it, elſe the Jury will be ſent together to deliver up their verdict.

Peters. *My Lord, if I had time and opportunity, I could take off many of the witneſſes, but becauſe their teſtimony is without control, I cannot ſatisfie my ſelf, I have no skill in the Law, elſe I might have ſpoke for my ſelf; I do not know what to ſay more, unleſs I had more time and counſel.*

*Mr. Soll. General.* If the priſoner can ſay no more, here is this in it, here are five places where he did conſult about the *Kings* death, at *Windſor*, at *Ware*, in *Colemanſtreet*, in *the painted-chamber*, and in *Bradſhaws* houſe; and four witneſſes to prove this; there are two witneſſes to his compariſon of the *King* and *Barabbas*, and two witneſſes to his text of binding their *Kings* in chains, &c. proof that he hath been in action in *New England*, that he came from it with that intent, and then went to *Holland*, that he had been in arms, that he called the day of his Majeſties tryal a glorious day, reſembling

reſembling the judging of the world by Saints, he prayes for this in the painted Chamber, preaches for it at *Whitehall*, S. *Iames's* Chappell, *Sepulchres*. What man could more contrive the death of the *King* then this miſerable Prieſt hath done? the honour of the pulpit is to be vindicated, and the death of this man will preach better then his life did, it may be a means to convert many a miſerable perſon whom the preaching of this perſon hath ſeduced, for many come here, and ſay they did it *in the fear of the Lord*, and now you ſee who taught them, and I hope you will make an example of this carnall prophet.

*The Iury went together and after a little conſultation ſetled in their places.*

*Cl.* Are you agreed on your Verdict?

*Iury.* Yes.

*Cl.* Who ſhall ſay for you?

*Iury.* Our foreman.

*Cl.* How ſay you, is the priſoner at the Bar guilty of the Treaſon whereof he ſtands indicted, or not guilty?

*Foreman.* Guilty.

*Cl.* And ſo you ſay all?

*Iury.* Yes.

*Cl.* Look to him Keeper.

*Councel.* We deſire Mr. *Cooke* may be brought to the Barr, and that they may both have their judgement pronounced.

*Cl.* *Iohn Cooke* hold up thy hand, what haſt thou to ſay why the Court ſhould not pronounce judgement for thee to dye according to Law?

*Cooke.* I have a few words matter of Law: Firſt, there is no averment in the Indictment that *I. Cooke* mentioned in the Act of Indempnity, is the ſame with the *John Cooke* mentioned in the Indictment, and that I am the *John Cooke* mentioned in both.

*Lord chief Baron.* This will not help you in this caſe, you have owned and have pleaded by the name of *John Cooke*.

*Cooke.* The ſecond is this, that the overtacts ſhould be particularly expreſſed in the Indictment.

*Lord chief Baron.* This cannot be alledged in arreſt of judgement, the Jury have found you guilty of compaſſing and imagining the death of the King, by the ſtatute of 25. *Edw.* 3. and this cannot help you.

*Cooke.*

*Co. I ſay it was profeſſionately.*

*Ld, Ch.B,* That hath been overruled already, we have delivered our opinions; the profeſſion of a Lawyer will not excuſe them, or any of them from Treaſon, and this hath been overruled and is overruled again.

Co. *I humbly conceive, that the remaining part of the H. of Commons were to be Judges whether there was a force or not.*

*L. Ch.B.* This is all paſt and overruled.

Co. *Then I have no more.*

*Cl. Hugh Peters,* Hold up thy hand, what haſt thou to ſay for thy ſelf why Judgment ſhould not paſſe againſt thee to die according to law?

*Peters.* I will ſubmit my ſelf to God, and if I have ſpoken any thing againſt the Goſpel of Chriſt, I am heartily ſorry.

Silence Commanded.

*Lo. Ch.Bar.* You are both perſons of that ingenuous and liberal education as I hope I ſhall not need to tell you what it is to die, you have had time, a great deal of time to think of it; you could not but think of this iſſue of your doings long ago, and therefore I ſhall ſpare my labour of telling you what it is to die, and of that eternity that you are to enter into, onely give me leave in a few words in relation to both of your profeſſions to ſay ſomething, to ſhew the nature and hainouſneſs of this offence, the murther of the King, if you were not actually guilty of putting the King to death, nay, admitting (in charity) you had no intent to go ſo far as you did, you are by the laws of Chriſt, and this Nation, guilty of high Treaſon, in that, you that are a Lawyer know very well (and I ſpeak it that you may lay it to your heart) in the convictions of your conſcience. I muſt ſay to you as *Joſhua* ſaid to *Achan, my ſon give glory to God and confeſſe*, and it would become you ſo to do,) you know very well it is the law of this Nation, that no one houſe nor both houſes of Parliament have any coercive power over the King, much leſs to put him to death; you know (as you cited very well) that the impriſoning of the King is Treaſon. You know both of you, this is an undoubted truth, the rule of Law is, that the King can do no wrong, that is, the King can do no wrong in the eſtimation of Law, he may do ſome particular Acts as a private perſon, but he can do little prejudice in his own perſon; if he would hurt any, it muſt be by Miniſters, in that caſe the Law provides a remedy, if he doth it by Miniſters, they muſt anſwer for it. The King of *England* is one of thoſe Princes who hath

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an Imperial Crown, what is that? It is not to do what he will, no, but it is, that he ſhall not be puniſhed in his own perſon if he doth that which in it ſelf is unlawful. Now remember this when you took the oaths of Alleagiance and Supremacy (I preſume you both did ſo) what was your oath of Supremacy? it was this, that the King was the onely Supreame Governour of theſe Realms, it goes farther, as he was Supreame Governour, ſo he was the onely Supreame Governor, that excludes Coordination; you ſwear farther, that you will to the uttermoſt of your power defend the King againſt all conſpiracies and attempts whatſoever, truely you that were a Lawyer when you had thus ſworn, your fee could be no excuſe againſt what you had ſworn to. We know that the King in his politick or natural capacity, is not onely *ſalus populi* but *ſalus Reipublicæ*. The Law hath taken care that the people ſhall have juſtice and right, the Kings perſon ought not to be touched, the King himſelf is pleaſed to judge by the Law, you ſee he doth by Law queſtion the death of his Father, he doth not judge it himſelf, but the Law judges it. Mr. *Peters* knows very well he ſubſcribed the 39. Articles of Religion, look upon them that were made in 1552. and upon thoſe Articles that were confirmed in 13 *Elizabeth* the King is there acknowledged to have the chief power in theſe Nations, the medling with the king was a Jeſuitical doctrine; This I ſpeak not that the King ſhould or ought to govern but by the Fundamental laws of the land, they that keep within the bounds of the law are happy, you that are a Lawyer, know this in point of Law, and you that are a Divine, know this in point of Divinity. You both know the truth of it, and when you have thought upon it, I hope you will reflect upon that horrid crime, the ſhedding of Royal blood. You ſee he had granted all thoſe grievances of the people, taken them away, ſecured them for the future, and at this very time, when this horrid act was done, you ſee he had granted all at the deſire of the people, he had made thoſe conceſſions ſuch, as (were it not in reſpect of others more then thoſe that treated themſelves) they thought was more then could be expected by the Nation, You that had a hand in the Kings death, it falls upon you, the guilt of it, becauſe you were ſome of thoſe inſtruments that aſſiſted thoſe perſons that broke the Treaty, prepare your ſelves for that death which you are to die, it is a debt which we all owe to nature, if in this caſe there is ſomething of ſhame comes to you, it is that you muſt take as part of the reward of

your

your ſin. The onely work I have now to do, is to pronounce the Judgement, and this is the judgement of the Court, and the Court doth award. That both of you be led back to the place from whence you came, and from thence ſhall be drawn upon a hurdle &c. and the Lord have mercy upon your ſouls.

*Cl.* Cryer make proclamation.

*Cryer*, O yes, &c. All manner of perſons &c. and all Iurors and witneſſes, are to appear at this place to morrow morning at 7. of the Clock in the morning upon pain of 100.l a piece. So God bleſſe King *Charles*. &c.

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## 15. *October* 1660. at the Seſsions houſe in the Old *Bailey*.

## The tryal of *William Hewlet*.

*Memorandum* that the Bill of Indictment againſt *William Hewlet* alias *Howlet* was found at *Hickes-hall* 12. of *Octob.* inſtant.

### Proclamation of the Court being made.

*Clerk of the Crown.* SEt *William Hewlet* alias *Howlet* to the Bar which was done accordingly.

*Cl. William Hewlet* alias *Howlet* hold up thy hand, Thou ſtandeſt Indicted of high Treaſon in the County of *Middleſex*, by the name of *William Hewlet* alias *Howlet*, for that thou &c. How ſayeſt thou, art thou guilty of the high Treaſon whereof thou haſt been Indicted and art now arraigned, or not guilty?

Hewlet. *I am not guilty my Lord.*

*Clerk.* How wilt thou be tryed?

Hewlet. *By God and the Countrey.*

*Cl.* God ſend thee a good delivery.

Set him aſide.

*Octob.* 15. 1660.

*Clerk of the Crown.* Set *Axtell* to the Bar; which was done accordingly.

*Clerk.* *Daniell Axtell* hold up thy Hand.

*Axtell.* Pray my Lord, let me have Pen and Ink.

*L. ch. Bar.* Give Mr. *Axtell* Pen and Inke.

*Clerk.* *Daniell Axtell*, theſe men that were laſt called of the Jury are to paſs, *&c.* if you will challenge them or any of them, you muſt challenge them when they come to the Book before they are ſworn.

*L. ch. Bar.* Do you know how many you have liberty to challenge? becauſe I would not have you miſinformed, 35 you may challenge peremptorily, and no more.

*Axtell.* I thank your Lordſhip.

*L. ch. Bar.* Unleſſe you have any particular cauſe; if ſo, you may challenge more.

*Axtell.* I confeſſe I am wholly ignorant of the law.

*John Kirke*, *John Smyth*, *Thomas Morris*, *Ralph Halſell*, *John Sherecroft*, *Francis Beale*, *Robert Cromwell*, *John Gallyerd*, *John Shelbury*, *George Rithe*, were called, and by the Priſoner challenged.

*Thomas Bide*, *Charles Pitfield*, *Robert Sheppard*, *William Dod*, *Thomas Uſman*, *William Maynard*, *George Plucknet*, *Samuel Harris*, *John Nicoll* of *Hendon*, *Henry Marſh*, *Thomas Biſhop*, *Thomas Snow*, in all 12 were admitted, and ſworn of the Jury.

*Cler. of the Crown.* If any man can inform my Lords the Kings Juſtices? *&c.*

*Cl.* *Daniell Axtell* hold up thy Hand. Look upon the Priſoner you that are ſworn, and hearken to your charge; you ſhall underderſtand that the priſoner ſtands Indicted, *&c.*

*K. Councell.* May it pleaſe your Lordſhips, and you Gentlemen that are Sworn of this Jury, The High Court of *Injuſtice* that was Erected for Tryall of the late King, it had all the formalities of a Court to put in Execution that bloudy Act; they had their *Preſident*, their Councel, their Chaplain, and their Guards; ſome of their Judges have been already Tryed, one of their Council, and their Chaplain. Now my Lord, we come to the Guards, and this Gentleman at the Bar, that is now the priſoner, He was Commander of that Black Guard, that cruell and bloudy Guard: The Indictment is, *That he did Imagine and compaſſe the Death*

of the King; there be ſeveral overt acts that are mentioned in the Indictment as Evidences of that Imagination, as the conſultation to bring him to Tryal, the Actual bringing him to Tryal, and the Bloudy Execution upon the Scaffold; Our Evidence ſhall be this, That during the time of the Tryal, the Priſoner at the Bar did Command the Souldiers in *Weſtminſter-Hall*, himſelf did keep the Entrance into the Court, and when *Bradſhaw* did ſpeak to the King and told Him he trifled away time, and required his anſwer to the charge Exhibited in the Name of the Commons of *England* Aſſembled in Parliament, and the good People of *England*; that a Noble perſon in the Gallery there cryed out, it was a *Lye*, ſaying, that above half the Commons diſowned it, ſaying, where are theſe good people? *it is a lye*, Oliver Cromwell *is a Traytor*, this bloudy Fellow commanded the Souldiers to ſhoot her: he did ſeveral times command and encourage the Souldiers to cry out *Juſtice, Juſtice*; and the laſt day of that horrid Tryal, called by them, *the day of Judgement*; he likewiſe commanded them to cry out *Execution, Execution*, and when ſome of them would not doe it, he had the Valour to *Beat* them. My Lords and Gentlemen of the Jury, if we prove any of theſe particulars to demonſtrate unto you that he was Guilty of compaſſing and imagining the King's Death, it is equal as if we had proved he did Actually cut off the King's head.

Mr. *Bodurdoe*, Mr. *Nutley*, Mr. *Harrington*,
Sir *Purback Temple*, Mr. *Sympſon*, Mr. *Baker*,
Mr. *Huncks* and Mr. *Jeonar* Sworn.

*Councel.* Mr. *Sympſon*, tell my Lords and the Jury, who had the command of the Souldiers during the Tryal of the King in *Weſtminſter-Hall.*

Sir, My Lords (as I ſaid before in the caſe of Mr. *Peters*,) Colonel *Stubberd* and Col. *Axtell* had the command of the Souldiers below Stairs, near that which was called the *High Court of Juſtice.*

*Axtell.* I deſire to know his Name my Lord?

Sir, my Name is *Holland Sympſon.*

*Councell.* Did you ſee him there commanding the Souldiers?

Sir, There was a kind of a Hubbub in the Court, there was a Lady (they ſaid it was the Lady *Fairfax*) who at the Exhibiting of the *charge* againſt the King, ſaid to be in the Name of the *Commons and People of England*; She ſpoke out aloud, and ſaid, *it was a lye*, that

that not half, not a quarter of the people. *Oliver Cromwell* is a Rogue and a *Traytor*, they called for a Guard, this Gentleman he was called, and brought up ſome Muſqueteers and commanded his Soul'diers to Preſent and give Fire againſt the Lady, and commanded her to Unmask.

*Axtell.* What Lady was it I deſire to know?

*Sir.* She went by the Name of the Lady *Fairfax*, I know not whether it was ſo or no, it was the common report it was ſhe.

*Councel.* Mr. *Huncks* pray tell my Lord what you know of the Priſoner at the Bar.

*Huncks.* *My Lord* to ſay poſſitively any thing of the man touch-his command I cannot, but onely that morning the King Dyed he came into the Door of the Room where Colonel *Phayre*, Col. *Hacker*, *Cromwell* and my ſelfe were (*Ireton* and *Harriſon* lying in bed together in the ſame Room) and then he ſtood at the Door half in and half out; I refuſing to Sign an Order for Executing the King as *Crommell* ordered me, and ſome little croſſe Language having paſſed, ſaith the Priſoner at the Bar, Col. *Huncks I am aſhamed of you, the Ship is now coming into the Harbour and will you ſtrike Sayle before we come to Anchor.* This I appeal to your ſelf, but for crying out Knock them down, Shoot them. I know not who it was, the Officers cryed Juſtice, and ſome of the Souldiers, but I profeſſe I know not who it was particularly, but they cryed Juſtice, and then I fell a trembling, for I was affraid of the King; but theſe were the words he uſed to me, *will you ſtrike ſayle*, &c.

*Axtell.* *My Lord*, I deſire to ask him a queſtion.

*L. ch. Bar.* Ask him what you will.

*Axtell.* If *I* am not in the right *I* hope your Lordſhips will direct me.

*L. ch. Bar.* Go on.

*Axtell.* Col. *Hucaks*, where was it?

*Huncks.* In a little toom in *Whitehall*, where *Ireton* and *Hariſon* lay in bed together.

*Axtell.* Do you know whereabouts?

*Huncks.* I think I can go to the Room; I appeal to your own conſcience before all this people.

*Axtell.* By your favour Sir the room I pereeive you know not, and truly Sir, *My Lord*, if you pleaſe to give me leave, becauſe he

appeals to my conſcience, I doe appeal to the Great God before whom it may be, I may be Arraigned to give an account of all my Words, Thoughts and Actions; I do not remember that ever I had any converſe with this man there, or met him there, or any of that company there that day, he was a ſtranger to me, but I wiſh that you (to ſave your ſelfe being in the Warrant for Execution) doe not make others a Peace-Offering to ſave your ſelf, the Lord that knows my heart, I appeal to him, I appeal to your own conſcience becauſe you appeal to my conſcience, I never met you nor ſaw you there.

*Huncks.* Have you done? then give me leave, you ſay you doe not know me, I appeal to the ſame God, when *Cromwell* took upon him to have the Crown, have not I ſaid what have you got by being *Jehu*-like? *Lord ſtrike me dead here if it be not true.*

*Axtell.* I will not reflect upon him, but becauſe he hath appealed to my conſcience, therefore I ſpeak it, it is known Notoriouſly how *Jehu*-like you was, when you was one of the chief Guards of his Majeſty, one of the Fourty Halberteers that did oppoſe every perſon then for the King; had I had time and had not been a cloſe Priſoner as I was, there was Witneſſes enough.

*Councel.* This after our Evidence is more proper.

*Huncks.* Spare me not Col. *Axtell.*

*L. ch. Bar.* Take the Old and Autient courſe, let the Witneſſes that are produced for the King be all heard, then give your anſwer to all of them together.

*Axtell.* My Memory is not very good.

*L. ch. Bar.* You have Pen, Ink and Paper.

*L. ch. Bar.* Mr. *Axtell*, is this all that you deſire to ſpeak to Col. *Huncks*?

*Axtell.* Yes my Lord.

*L. ch. Bar.* Have you any other Queſtions?

*Conncel.* My Lord, we have a few words, he Objects as if Col. *Huncks* were under a danger, he is pardoned.

*Axtell.* I deſire to ask him upon what account theſe words were ſpoke?

*Huncks.* My Lord it was this; *Cromwell* having a Commiſſion (which I think I heard read here) Colonel *Hacker* was reading of it, My Lord, *Cromwell* he comes to me and by Vertue of that Com-

Commiſſion, he would have me to write a Warrant for Executing the King. I refuſing to write that Warrent (upon this which he ſpeaks of that ſtanding at the Dore, if God bleſſe me *I* will ſearch all the Dores at *Whitehall* but I will find it out) I not doing it, I ſaid why ſhould it be offered to me, ſayes *Cromwell* thou art a peeviſh Fellow, *Cromwell* fell a writing, aſſoon as ever he had done that writing, he give *Hacker* the pen, what *Hacker* writes I know not, and upon my refuſing, this priſoner at the Bar ſaid, *Col. Huncks* I am now aſhamed of you *The Ship is now coming into the Harbour, and will you now ſtrike Sayle before you caſt Anchor.*

*Councel.* You obſerve the courſe of this Evidence, there was a Warrant or Commiſſion directed to three persons; *Hacker*, *Huncks*, and *Phaire* for Execution of the King; *Cromwell* demanded of this Gentleman (*Col. Huncks*) that he ſhould ſign a Warrant by Vertue of that other Warrant, and this Gentleman refuſing it, the Priſoner objects this, that he to ſave himſelf doth witneſſe this againſt the Priſoner, Gentlemen he did refuſe the thing, have you any thing to ask *Col. Huncks.*

*Axtell.* He ſayes *Col. Phaire* and *Hacker* was there; I doe not doubt but they will be ſo conſcientious to vindicate me from all this charge.

L. *ch. Bar.* If it be any thing that tends to your defence that you will be heard afterwards; but have you any Queſtions to ask *Col. Hunks?*

*Axtell.* No more, I know nothing of it, if I were to dye at this Bar preſently.

*Councel.* Sir *Purback Temple* pray tell my Lords and the Jury your knowledge of the carriage of this Gentleman touching the Tryal of his Late Majeſty.

*Sir P. Tem.* My Lord being preſent and engaged by ſome perſons of Honour, Servants of his late Majeſty to be preſent when that Horrid Murther was acting before this Court of Juſtice (as they called it) I was preſent at all the Tryals of the King & very neer him, I heard the King demand from *Bradſhaw* by what Authority and *Commiſſion* they proceeded thus ſtrangely to Try him. Then I heard the Lady *Fairfax* and one Mrs. *Nelſon* (my ſiſter) after the exhibiting of the charge in the Name of the Commons Aſſembled in Parliament, and the good people of this Kingdom againſt *Charles Stuart* King

of

of *England*, I ſay I heard the ſaid Lady cry out from a Gallery over the Court, *Not half the people; it is falſe! where are they or their Conſents? Oliver Cromwell is a Traytor!* Upon which I heard the Priſoner at the Bar, cry out, Down with the Whores, ſhoot them, which made me take the further notice of them, ſeeing him in *Weſtminſter-Hall* commanding the Souldiers there, I ſaw him the moſt Activeſt perſon there; and during the time that the King was Urging to be heard, he was then laughing, entertaining his Souldiers, ſcoffing aloud, whileſt ſome of the Souldiers by his ſuffering, and (I believe) procurement, did Fire powder in the palmes of their hands, that they did not onely offend his Majeſties ſmell, but enforced him to riſe up out of his Chair, and with his hand to turn away the ſmoke; and after this, he turned about to the people and ſmiled upon them, and thoſe Souldiers that ſo rudely treated him: Then turning him ſelf to *Bradſhaw*, ſaid to him and the Court, There are ſome ſitting here (fixing his Eyes upon ſome perſons neer *Bradſhaw*) that well knew that if I would have Forfeited or Betrayed the Liberties and Rights of the people, I need not have come hither, (or words to this Effect:) But their Liberties and Rights are dearer and nearer to me then my three Kingdomes; nay then my life it ſelf. Therefore *I* deſire you to here me and remember, that I am your lawful King that have done you many Acts of Grace and Favour.

After which, this perſon Mr. *Axtell*, priſoner at the Bar, commanded his Souldiers to cry out, *Juſtice*, which the Souldiers not readily obeying of him, I ſaw him beat Four or Five of them with his Cane, untill they cryed out, (with himſelf) *Juſtice, Juſtice, Execution, Execution*, which made me turn to a Noble Lord, by whom I then ſtood, and ſaid, Pray my Lord take notice, there is not above 4 or 5 that cry out *Juſtice, Juſtice:* I heard alſo of their ſpitting in the King's Face; and I think no bodies ſufferings have been ſo like thoſe of our Saviour Chriſt Jeſus, as his Majeſties were: After this, this perſons crying *Juſtice, Juſtice Execution, Execution*, a ſecond time, the Court proceeded to paſſe a Sentence; the which his Majeſty preſſed hard againſt, and told him, Sir, before you paſſe that ugly Sentence (which *I* very well underſtand you are intended to doe,) I deſire you to hear me, hear me, hear me, paſſionately and not affectionately expreſſing it, which they denying the King, and the noiſe of *Juſtice, Juſtice, Execution, Execution*,, being repeated,

repeated, they proceeded, and read that ugly Sentence of Death: After which, his Majeſty was immediately hurried away from the Bar into a common *Cedan*, where he was carried by two common-Porters; which *Cedan* I followed to the middle of King's ſtreet, where I ſaw the two Porters, in reverence, go bare, till the Souldiers (under the command of the Priſoner at the Bar) beat them, and would not ſuffer them to go bare when they carried him. After this, the people cryed out, What do you carry the King in a common *Cedan* as they carry ſuch as haye the Plague? God deliver your Majeſty out of ſuch Enemies hands. In which Street I was forced to leave the ſight of his Majeſty, occaſioned by the injuries and hurts I received in my perſon from the Souldiers under *Axtell*'s command; they carrying him through the Streets ſhouting in triumph. A ſhort time after, I received an imporunate command from a Lady of great Honour (a ſervant of his Majeſties) that I would endeavour to find out where the Body of the *Martyr'd King* was, and to give her an account where then it was; Applying my ſelf to *Whitehall*, after two or threeſcore Entreaties, I was denyed; but underſtanding that money would doe it, I gave the perſons then under the command of Mr. *Axtell* that then kept it, to ſhew it me, half a piece; who in ſcoffing manner took me by the hand, ſaid, *If thou thinkeſt there is any ſanctity or holineſſe in it, look here*; where I ſaw the Head of that Bleſſed Martyr'd King lie in a Coffin with his Body, which ſmiled as perfectly as if it had been alive: this is the ſad account of the martyr'd King, and this ſad horrid Priſoner Mr. *Axtell*.

*Axtell. My Lord*, may I ask that Gentleman ſome Queſtions?

*L. ch Bar.* Yes, yes.

*Axtell. My Lord*, He ſeems to ſay, that I bid the Souldiers cry out for Juſtice, he doth not at all ſay I was there in command; but he ſaith a Lady, by report the Lady *Fairfax*, ſpake ſome words, and that I ſhould bid the Soulders ſilence her; truly I deſire to know the certainty of the place where I ſtood.

*Sir P. T.* My Lords and Gentlemen of the Jury, I ſaw this perſon ſtanding within a Pike or two length as I can gueſſe it, (I remember the place within a yard of the ground in *Weſtminſter-hall*,) I do not ſay this perſon ſate in the Court as a principal Officer that did then hold his Majeſty priſoner at the Bar, I did not ſay, it was

a Lady

a Lady unknown, or reported to be ſuch a one; but I ſaid it was the Lady *Fairfax*, and my own Siſter Mrs. *Nelſon*, and he cryed ſhoot the Whores.

*Axtell.* He ſeems now to ſay I commanded the Guards; I never was a Guard to his Majeſty or had thing to doe in that buſineſſe, but it was wholly committed to a company of men I know not of. That Gentleman that ſpoke I have no acquaintance with him; I think he did not know me at that time.

*L. ch. Bar.* Have you any thing to ask him?

*Sir P. T.* My Lord, another paſſage he puts into my memory when I did obſerve a thouſand of ſad faces; I ſaw none laughing but your ſelf, as if you had been carouſing and entertaining the Souldiers. I do not charge you that you commanded thoſe Halbertiers, but thoſe *Red-coats*; you were all in *Red:* I ſaw you *cane* thoſe 4 or 5 ſouldiers I mentioned, till they cryed *juſtice, juſtice* with you, and that with the powder in the palms of their hands, they forced the King to riſe out of his *chair*, which you were much pleaſed with and laughed at.

*Axtell.* I ſay before the Lord, before whom I muſt be judged again for this, I do deny this whole Obedience.

*Griffith Bodurdoe*, Eſq. ſworn.

*Gr. Bod.* My *Lords* and you Gentlemen of the Jury, I was at the time of this ſad Tryall in *Weſtminſter-hall.*

*Axtell.* Your Name Sir, I beſeech you?

*Councell.* His Name is Mr. *Bodurdoe.*

*G. B.* I ſay I was all the time of the King's Tryal in *Weſtminſter-Hall*; I was in a Gallery that I had out of my houſe where I then lived, juſt under and beſides the Houſe of Commons; and I do remember I ſaw this Gentleman there; I do think he was then called Lt. col. *Axtell*, ſo far as I remember; truly, I have not ſeen him ſince before this day, nor have had any reaſon to have known him, but that *I* ſaw him very active in giving commands to the Souldiers there: this Gentleman was keeping the *court*, letting ſome in, and putting others out: he ſeemed to have command of it; One day (whether it was about ſome paſſage or their Preſidents Speech I know not,) there was a Lady in the ſame Gallery where I ſtood, and ſome muttering, *It is a lie, not half the people*, or words to this effect. He the now Priſoner at the Bar ſtanding below in the *court* within

within the Bar not far from *Dendy* with ſome Five or Six Souldiers upon this muttering and diſturbance (as he apprehended) to the Court, he called to the Souldiers, ſaying, Shoot them if they ſpeak one word more; they did alſo preſent the Muzles of their Muſquets up to the Gallery: My Lord, by this we were very Huſh; after that immediately within half a quarter of an hour, *Dendy* came to the Gallery from the Court to know who it was that made that diſturbance. But the Lady was withdrawn into my chamber, and did not come out afterwards.

*Ax.* Where was this Sir? *L. ch. Bar.* What is it you deſire?

*Ax.* My Lord, where he ſaw me then?

*L. ch. Bar.* Mr. *Bodurdoe*, you here the queſtion.

Mr. *Bod.* There was a Gallery which I do believe is yet ſtanding, and the Court was juſt underneath the Gallery, and you were juſt underneath the Gallery and five or ſix Souldiers with you.

*Richard Young, ſworn.*

*Councel.* What do you know of the carriage of the priſoner at the time of the Tryal.

*Young.* I was upon a Scaffold whereby I did ſee what was done in the Hall; I ſaw that Lieut. Col. *Axtell* was buſie and very active in encouraging the Souldiers to ſay let us have Juſtice againſt the King.

*Axt.* I deſire to ask Mr. *Young* one queſtion? others ſay that the word was cry for Juſtice, this Gentleman is pleaſed to make ſome Addition, Let us have *juſtice againſt the King!*

*Young.* No not againſt the King, but I conceived you meant againſt the King.

*Axt.* I cry you mercy, you do but conceive ſo.

*Young.* You were upon the right hand of the Hall almoſt at the corner near the pavement, it could not be otherwiſe applyed.

*John Ieonar*, ſworn.

*Councel.* Speak your knowledge of Col. *Axtell*'s carriage at the High Court of Juſtice.

*Ieonar.* I had the Honour to wait upon the King as a domeſtique Servant to the time of his Death; that day which was the firſt day the King was brought to his Tryal, I did wait upon Him among other ſervants, we ſtood cloſe to the Bar where the King was, ſome three or four of us, Col. *Axtel.* was upon the right hand of us commanding the Guard to keep things in order when the Court was to be withdrawn, (the many circumſtances about the Lady *Fairfax*

ſhall be omitted) the *Preſident* command the priſoner to be withdrawn, with that Col. *Axtell* ſteps down before me to draw out his Guard, this I heard him ſay, Souldiers cry for *Juſtice, Juſtice*, I was the next man to him; and upon the laſt day of the Tryal, he did come down in the ſame manner, and bid the Souldiers cry out for *Execution, Execution.*

*Axtell.* I do deſire a queſtion may be asked of that Gentleman? I muſt confeſſe I did not know the Gentleman, at that time, though he ſaith he knew me. He ſeems to ſay, that at the firſt day I encouraged the Souldiers to cry, *Juſtice, Juſtice*, and the laſt day, *Execution, Execution*; What place was this in Sir?

*Jeon.* I tell you, the King was brought from *Cotton* Houſe through a Guard that you managed of Muſquetiers, and with a guard of Partiſans; beſides, there was my ſelf and others there: when we came up, we got as cloſe to the Bar as we could; you were paſſing up and down from above and below: when the Court was diſſolved, you ſtept down juſt before to draw your Guard to make ready, & to cry, *Juſtice, juſtice* and the ſecond time, *Execution, execution*, you were very near me, and then you cryed, *Juſtice, juſtice, Execution, execution.*

*Axtell.* Are you certain; I have heard other men, I confeſs, accuſed for this, Some other Officers.

*Jeonar.* I did hear you, I do know you by ſight.

*Councel.* You know him now to be the ſame perſon?

*Jeonar.* Yes.

*Samuell Burden*, ſworn.

*Coun.* Tell my Lord and the Jury what you know of the carriage of the Priſoner.

*Burden.* My Lords and Gentlemen, I dr believe Col. *Axtell* knows me well enough, I was then under his own command at *Whitehall*; there were ſome Cavaliers then in the Regiment: it was my fortune I came into your Company, I wiſh I never had: you commanded more beſides my ſelf to be a Witneſſe againſt the King, and Juſtice *Cooke* took my Examination: you brought me in, you commanded the Guards that time at *Whitehall* when the King was upon his tryal.

*Axt.* What more?

*Bur.* And you commanded *Eliſha Axtell* with a File of Souldies to take a Boat & go down to the common *Hangman* that liv'd beyond the *Tower* to execute the King; he is now *Shepard*'s Serjeant in *Ireland.*

*Axtell.* My Lord, I deſire to ask him a queſtion: he was pleaſed to ſay, I deſired him to be a Witneſſe.

*Bu.*

*Bur.* Yes.

*Axtell.* Where was it?

*Bur.* In the Court at *Whitehall.*

*Axt.* My Lord, *I* have ſeen the printed Liſt of VVitneſſes againſt the King, and in that liſt you ſhall find no ſuch Name.

*Bur. I* have been a Priſoner in *Dublin* by your means.

*Axt.* My Lord, I hope you will take notice of that.

*Coun. Burden* do you remember any of his commands to *Web*, to draw up in the Banqueting-houſe?

*B.* He commanded *Web* to draw up in the Banqueting-houſe, during the time of Execution, his own company. I was one of his own company then.

*Coun.* In order to what?

*Bur.* For Execution.

*Axt.* My Lord, is *Webb* here?

*Bur.* He is in *Dublin.*

*Axt.* I wiſh he were here.

*Edward Cooke*, Sworn.

*Cook.* And it pleaſe your Honour my Lord, the laſt day of the Tryal of his Majeſty, I came into *Weſtminſter-hall*, coming where the Court was, I did ſee Col. *Axtell* the Priſoner at the Bar there with ſome Muſquetiers.

*Coun.* VVhat day was this?

*Cook.* The laſt day of his Majeſties Tryal.

*L. ch. Bar.*, Go on Sir.

*Cook.* Standing there a little while, his Majeſty came guarded with ſome Halberteers, when he came by the Souldiers that ſtood with Col. *Axtell*, his Majeſty bowed, and afterwards put off his Hat, and went up to the Court; I could not know what *Bradſhaw* ſaid to him, I ſtood below, I heard him ſay, he was brought by the *conſent of the commons and people of England*: there ſtood a Lady above in a Gallery crying out, *it is a lye, where are the people, or their conſents? Cromwell is a Traytor:* whereupon Col. *Axtell*, ſtanding by ſaith he, what Drab is that that diſturbes the court; come down or I will fetch you down.

Mr. *Nelſon*, Sworn.

*Coun.* Tell my Lords and Gentlemen of the Jury, touching the Diſcourſe between you and the Priſoner at the Bar in *Dublin.*

*Nelſon.* My Lords and Gentlemen of the Jury, upon a Diſcourſe

with the priſoner at the Bar in *Dublin* 5 or 6 yeers ſince, upon the plat form in that caſtle we diſcourſed of the late Kings, having had ſeveral reports, I deſired to know of him who it was that Executed the King, thinking he might inform me, he was pleaſed to tell me this, ſaith he, the perſons that were imployed in that ſervice, you know them as well as I do; truly Sir not I, ſaid I, I ſaw them in Vizards but not their Viſage as I know of, yes ſaith he you doe know them, it is true ſaith he, my ſelf and others were imployed in that affair in order to the Execution; but there were ſeveral perſons came and offered themſelves out of a kind of Zeal to doe the thing, but we did not think it proper to imploy perſons whom we did not know, but we made choice of a couple of Stout perſons, pray let me hear their Names ſaid I, ſaith he it was *Heulet* and *Walker*, *I* deſired to know their reward, Truely ſaith he I do not know whether 30*l.* a piece, or between them; I ſaid it was a ſmall reward for a work of that Nature, truly ſaith he that was all.

*Axt.* You named one man, I did not heare the other named.

*Nelſon.* I named *Hewlet* and *Walker*, he was one that managed the Execution, he told we ſo, and it pleaſe you Sir.

*Axtell.* He is pleaſed to ſay that in *Ireland* there was ſuch conference, was any body by? *Nelſon.* No Sir.

*Axt.* Did I name any body to you?

*Nel.* You named thoſe two perſons.

*Axt.* Certainly I muſt invent them then, for I had no more knowledge of them then any one here

*Nel.* You told me you were one of them that had the managing of that Affair.

*Cruncel. My Lord*, we have done with our Evidence, thoſe particulars that were firſt opened to you; have rendred the priſoner much a blacker perſon then we thought. we leave him to his defence.

*Axt.* May it pleaſe your Lordſhips, in the Firſt place becauſe I am ignorant in the laws, I deſire to know upon what ſtatute this indictment is grounded.

*L. ch. B.* It is grounded upon the ſtatute of the 25*th.* of *Edw.* the Third.

*Axt.* My Lords, I muſt acknowledge my ignorance of the laws, being a thing I never ſtudied, nor have the knowledge of, but I have heard it is the duty of your Lordſhips and the Judges to be of Councel for the priſoner in things wherein he is ignorant in matters of law,

law to make his juſt defence, and therefore my Lord the indictment it ſelf being matter of law, if your Lordſhips pleaſe not to Grant me Councel to ſpeak to matters of law, I humbly pray that your Lordſhips will be pleaſed that for want of knowledge, formalities, punctilloes, and nicities of the law, I might not undoe my ſelf; I have heard by a learned Judge, that though the Judge be of Councel to the King, yet by his Oath he is alſo to be Counſellor to the priſoner, and ſtands as a Mediator between the King and priſoner, and therefore my Lord I ſhall beg that humble Favour, that wherein I ſhall fall ſhort to make the beſt improvement of my plea in matter of law, that your Lordſhips will help me, and not take advantages againſt me, as to the nyceties, formalities and punctilloes of the law; and my Lord this is a reſemblance of that Great day where Chriſt will be Judge, and will Judge the ſecrets of all hearts, and of all words, and of all perſons, and by him all Actions are weighed, knows all our hearts whether there be malice, or how it ſtands in the frame of each heart before him in this place, and therefore I hope there will be nothing by prejudging, or any thing by precluding to be ſo black a perſon as it ſeemed to be ſaid againſt me. *My Lords*, I muſt ſhorten the time and come to ſpeak as to the Authority.

*L. ch. Bar.* As to what Sir *I*

*Axt.* I ſpeak as to the Authority by which or under which I Acted, I humbly conceive my Lord under Favour, that I am not within the compaſſe of that ſtatute of the 25*th.* of *Edward* the Third, for that queſtionleſs muſt intend private perſons, *councelling, Compaſſing or Imagining the death of the King*. But you know my Lords the War was firſt ſtated by the Lords and Commons the Parliament of *England*, and by Vertue of their Authority was Forced to be raiſed, and they pretended by law that the right of the *Militia* was in them, and your Lordſhips will remember in ſeveral Declarations and Acts that was mutually exchanged between his Majeſty and parliament, and my Lord that was the Authority the Lords and Commons Aſſembled in parliament, raiſed a Force and made the Earl of *Eſſex* General, and after him the Earl of *Mancheſter*, of the Eaſtern Aſſociation, and after that Sir *Tho. Fairfax* Lord General of the Forces, by this Authority I Acted, and this Authority *I* humbly conceive to be legal, becauſe this parliament was called by the Kings Writ, choſen by the people & paſſed a Bill they ſhould not be diſſolved without their own conſents, that the parliament was in being when the Tryal was, and a queſtion whether yet legally Diſſolved.

In

In the Fourth place they were not only Owned and obeyed at home but abroad to be the chief Authority of the Nation, and alſo owned by Forreign States and Kingdomes, ſent Ambaſſadors to that purpoſe, under them did all the Judges of the land Act, who ought to be the Eye of the land and the very light of the people, to Guide them in their right Actions, and I remember the Judges upon Tryal (I have read it of High Treaſon) Judge *Thorpe*, *Nicholas* and *Jermin* have declared it publickly, that it was a lawful juſtifiable thing by the law of the land to obey the Parliament of *England*. *My Lord*, it further appears as to their Authority over the people of this Nation petitioning to them as the ſupreme and lawful Authority: and *My Lords* as I have heard it hath been objected that the Houſes of Lords and Commons could make no Act. Truly my Lord if you will not allow them to be Acts, though they intitle them ſo, call them ſo, and obeyed as ſo by the Judges, Miniſters, and Officers of State, and by all other perſons in the Nation, yet I hope they cannot be denyed to be Orders of Parliament; and were they no more but Orders, yet were they ſufficient as I humbly conceive to bear out ſuch as Acted thereby. And my Lord the Parliament thus conſtituted and having made their Generals, he by their Authority did conſtitute and appoint me to be an inferior Officer in the Army, ſerving them in the quarters of the Parliament, and under and within their power, and what I have done my Lord it hath been done only as a Souldier, deriving my power from the General, he had his power from the Fountain, to wit, the Lords and Commons, and my Lord this being done, as hath been ſaid by ſeveral, that I was there and had command at *Weſtminſter-hall*, Truly my Lord if the Parliament command the General and the General the inferior Officers, I am bound by my Commiſſion according to the Lawes and Cuſtomes of War to be where the Regiment is; I came not thither Voluntarily, but by command of the General, who had a Commiſſion (as I ſaid before) from the Parliament. I was no Counſellour, no Contriver, I was no Parliament man, none of the Judges, none that Sentenced, Signed, none that had any hand in the Execution, onely that which is charged is that I was an Officer in the Army, if that be ſo great a crime, I conceive I am no more Guilty then the Earle of *Eſſex*, *Fairfax*, or the Lord of *Mancheſter*.

*Judge Mallet.* You are not charged as you were an Officer of the Army.

*Axtell.*

*Axtell.* My Lords That is the main thing they do insist upon: my Lord, I am no more Guilty then his Excellency the Lord General *Monck*, who Acted by the same Authority, and all the people in the three Nations; and my Lord, I do humbly suppose, if the Authority had been onely an Authority in Fact and not Right, yet those that Acted under them, ought not to be questioned; but if the Authority commanded whatsoever offence they committed, especially that that guided me was no lesse then the declared Judgement of the Lords and Commons, sitting in Parliament; they declared that was their right as to the *Militia*, and having explained several statutes of *Henry* the *7th.* wherein the King having enterchanged Declarations with the Parliament; the Parliament comes to make an Explanation upon that Statute; and my Lord, it is in *Folio* 280. wherein they do positively Expound it and Declare it as their allowed Judgement. To clear up all scruples to all that should take up Arms for them; saith the *Parliament* there as to the Statute of the 11. of *Henry* the 7. Chapter the first, which is printed at large, comes there to explain it in General, and comes here, *Folio* 281. and gives this Judgement; *It is not, say they, agreeable to Reason or Conscience that any ones duty should be known, if the Judgement of the High court of Parliament be not a Rule or Guide to them.* In the next place, this is the next Guidance, Rule, and Judgement of *Parliament*, upon the Exposition of this Statute, and as they have said in several places (was it not too much to take up your Lordships time) they are the proper *Judges and Expounders of the laws.* The High Court of *Parliament* have taken upon them to expound the law, and said, that we lawyers will give the meaning of the Text contrary to what they have expounded the meaning under their hands: in the same *Declaration* his Majesty is pleased to quit that Statute upon which I stand Indicted, the 25. of *Edw. the Third*, where they do my *Lord* expound that very Statute in the Declaration made in 1643. *Folio* 722. I come to the declared Judgement, wherein they did positively say, that the persons that do Act under their Authority, ought not to be questioned as persons Guilty *Folio* 727. that is the Exposition that the *Lords* and Commons Assembled in *Parliament* doth make upon the statute.

*Councel.* My *Lord*, this is an Argumentation of Discourse in justification of his proceedings, we desire to know what he will answer as to the Plea.

*Ax.* My *Lords*, I have this further to say, that if a House of Commons Assembled in *Parliament* may be Guilty of Treason; (for the truth

truth is, if I Acted Treaſon that Acted under the Authority of the Lords and Commons in Parliament, and of the Commons in Parliament) then douhtleſſe they muſt begin the Treaſon: if the Houſe of Commons, who are the collective body and Repreſentation of the Nation, all the people of *England*, who choſe them, are guilty too; and then where will there be a Jury to try this? concerning the Commons alone, I have been over ruled.

L. *ch* Bar. If you have any thing to ſay to the Lords and Commons, anſwer to your charge; your charge is nothing of the Lords and Commons; but what you Acted when the houſe was broke and Forced.

*Coun.* You cannot but know that there is nothing charged againſt you, for which you can ſo much as pretend an Authority of the Lords and Commons, you know before you could doe this Horrid Murther, you were the perſons that deſtroyed the Lords and Commons both; indeed you Ravel in a buſineſſe, and to make people gaze upon you without any Ground.

*Axt.* I am upon my life, *I* hope you will hear me patiently.

L. *ch.* Bar. God forbid but we ſhould.

*Axt.* I doe deſire to aſſert my Authority; if any thing was done upon the Houſe of Lords and Commons, I doe not come here to juſtifie their Actions, I was not concerned in it. My next Pela is this; that if a Houſe of Commons can be charged Guilty of *High Treaſon* as a community, the diſtributive Body muſt needs be Guilty.

*Court.* If there ſhould have been 20 or 40 men come out of the Houſe of Commons, and ſhould Murther a man, they muſt anſwer for that; it is not the community that can doe ſuch an Act of Treaſon; theſe perſons that you call a Houſe of Commons, there was but 26 of them, and theſe muſt be the people; this is the ſtate of the caſe: and when you have thruſt out thrice the number of thoſe remaining, only thoſe can ſerve your turn.

L. *Anneſly.* Mr. *Axtell*, *I* am very ſorry to ſee you in that place and it troubles me as much to hear you vent that for an Authority which you know your ſelf was no authority; you would now for your defence for life (& it is reaſon you ſhould make as full a *defence* for life as you can) you wold ſhelter your ſelf under that Authority, which *I* am ſorry *I* muſt ſay were one of the greateſt Violators of: you cannot forget how near a cloſe of this bloudy War by the mercy of God, this Nation was, when the Army interpoſed, whoſe Trade it was to live by War, when they had felt ſo much of tde ſweet of War, they would not

ſuffer

ſuffer the people to enjoy peace, though the Lords & Repreſentatives in Parliament had agreed to it; A Treaty was begun, terms of peace propounded and agreed to, this you cannot forget, and will have no need of Notes or Books to help your memory: when the people groaned under the miſeries of War and thirſted after Peace, then comes up the Army, who were ſervants to the Parliament til that time, taking upon them the Authority (you cannot forget that your ſelf was one of the number that came to offer accuſations againſt the majority of the Commons Houſe, calling them rotten Members; the Houſe of Lords was not then ſuffered to ſit, they would not joyn in that Ordinance that was preparing for the tryal of the King; when the Lords had refuſed, they were no longer fit to be Lords neither; then comes in a new Authority which we never heard of before; a remnant of the Houſe of Commons joyning with the Army, that had driven away the greateſt part of the Houſe of Commons; (for in all Bodies and Courts the major part muſt determine, or no determination) after this courſe was taken, then is an Act ſet on foot, they take upon them by Votes of their own to be the Parliament of *England*, that the ſupreme power of the Nation is in the Repreſentatives of the people; who were they? thoſe few only that remained, almoſt all the Cities, Counties and Burroughes of *England* had none left to repreſent them, they were driven away by Force, then was this Act of Parliament (ſuch an Act as was never heard of before) ſet on foot and paſſed as an Act by a few of the Houſe of Commons, if you can plead this for your defence, this is the act that you muſt ſhelter under: but you know the Lord and Commons had Unanimouſly reſolved for peace, and ſo agree with the King: if this Act will be any defence, you may plead it to the full; and this is all you have to ſay; therefore go upon no Forreign matter.

*Axt.* If it pleaſe your Lordſhip, that worthy Lord that ſpoke laſt is pleaſed to ſay, that I was one of the perſons that did accuſe ſome of thoſe Members of Parliament; truly my Lord, I never did come to the Commons Bar but once, preſenting a Petition; and for my hand either in charging any of the Members, or Secluding any of them, I never had any hand in that matter, this is all to that part. Next I Humbly conceive here I muſt ground my bottome, and if I periſh, I periſh, by a Judgement in Parliament; My Commiſſion that did Authorize me to obey my Generall, was given me when the Lords and Commons ſate in Parliament, I had no other Commiſſion then this: my Lord *Fairfax* commanded the Army after

the Kings Death by the like Commiſſion, I did but my duty in going to my Regiment, the General ſaith, go to ſuch a place, ſtay there, if I refuſe, by the law of War I Dye, if I obey I am in danger likewiſe; I ſay my Commiſſion was given me by the the Lords and Commons, and therefore I hope my Lord that what I have ſaid and offered in that particular, is not Truthleſſe but of Weight.

*Court.* The Effect of your Commiſſion is onely to make you an Officer.

*Axtell.* My Commiſſion bears date the 27*th.* of *March* 1648. Ten months before the Kings Death; we had no other Commiſſions, therefore I humbly conceive the queſtion will be this in point of law, and I humbly deſire it may be Truly and Fairely ſtated by your Lordſhip and theſe Honourable Judges, that whether a man being guided by the Judgement of the Lords and Commons Aſſembled in Parliament, and having declared their Judgements and Expoſitio that ſtatute of the 25*th.* of *Edward* the Third, and Acting one that Judgement of Parliament and under their Authority ca queſtioned for Treaſon. That my Lord is a queſtion that I do humbly think is a point in law, and that you will pleaſe fairly and truly to ſtate it, whether I am within the compaſſe of that ſtatute whereupon I am Indicted.

*Councel. My Lord*, We do not charge him with any thing that he did act under the colour of this Commiſſion, or with any thing he did before that, but that which we charge him with are the Acts that he did at the Tryal of the King, ſhew us your Commiſſion from the Lords and Commoms Aſſembled in Parliament for Tryal and Execution of the King, you ſay ſomething; we doe not charge him for any thing done by Vertue of that Commiſſion, but with thoſe Violent Acts that he did in encouraging the Souldiers to cry *Juſtice, Juſtice, Execution, Execution*, and all thoſe other Violent Actions of his own malitious Heart againſt the King We humbly beſeech you he may anſwer to that which is the charge againſt him, and that is the *Compaſſing and Imagining the Death of the late King*, and his declaring that by thoſe overt acts that we have proved. *My Lords*, we deſire that the Priſoner at the Bar may remember that he is not Indicted for levying War againſt the King, if ſo, then that Sir which you offer might be given as a Plea, and we ſhould have ſpoken to it; but you are Indicted for *Compaſſing and Imagining the Death of the King*; and that which we have given in Evidence were the ſubſequent overt acts to prove the ſame.

*Axtell.*

*Axt.* I hope you will not think it much to give me ſome more freedom for my own defence for my life; my *Lord*, I muſt needs ſay though there was a force on the Parliament, I am not juſtifie it; I was no Lawyer, no Stateſ-man, no Counſellour, but a Souldier; and if the General who had his Commiſſion from the Lords and Commons and that ſome years before and after the King's Death, be not Guilty of Treaſon, what I did was by command from my General, and though I am charged with being in Arms in *Weſtminſter-hall*, and at ſuch and ſuch a place, yet it was not a Voluntary act; for I was bound to obey my General; I do humbly pray that I may have your Lordſhips Judgement in this point; I muſt ſay it was from the ſenſe of their expoſition of the law and of the Statutes, and from the Authority that every one took up Arms for and ſerved them, and obeyed either the one General or the other; I ſay it was under this very Authority, and this muſt needs acquit me from all the Guilt that is laid upon me.

*L. ch. Bar.* You put your ſelf upon the Judgement of the Court, upon this which you call a point in law. Firſt, it is manifeſt that there is no excuſe at all for Treaſon, no man by his Commiſſion can warrant the doing of an Act which is Treaſon! you muſt take notice of the Authority whether it be good or no, your Commiſſion was not to put the King to Death, but on the contrary to preſerve the King's life. The Lords and Commons what they did we doe not meddle with; the Reaſon and Ground of what they did was the preſervation of the King's Perſon, As well as the maintenance of the laws and liberties of this Nation; they made Proteſtations, Declarations and Oaths for the preſervation of the King's Perſon; and you could not but take notice of thoſe things: now whereas you go about to ſhroud your ſelf under the Lord *Fairfax*, he had no ſuch power and therefore you can challenge no more then he had? and to what you ſay concerning the Judgement of the Parliament, there will be a great deal of difference between a particular Caſe, and a Declaration of Lords and Commons; there is nothing you have ſaid that hath any thing of Force, and God forbid you ſhould make uſe of it; But I muſt tell you, you could not but notoriouſly know all thoſe Tranſactions that were in the Army, what the Army had done, That they came up with Swords in their Hands, and turn'd out whom they would; you ſaw what the Lords and Commons had done, That the Treaty was ready for his Birth; And when you come up with your Mermidons, with Force and Arms, and Exclude the greateſt part of the Members, and then the Lords were laid aſide: it is true, the Lords were not

wholy diſſolved,but they would not ſuffer them to Sit nor Act at all and this was apparent to the Nation. If men under colour and pretenſe of ſuch things, Namely, that a few perſons (for ſo they were) but an Eight part of the Houſe of Commons permitted to remain, and of that Eight part (which was but 46 in the whole) there were but 26 that Noted that Act which you ſay you obeyed : but you ſay you obeyed the General; you were not to obey the General in this caſe ; for the Facts that you have committed,are not charged as Acts of War ; you are not charged for bringing the Souldiers in, but for thoſe Violent Actions that you were guilty of there ; you made the Souldiers cry out, *Juſtice, Juſtice, Execution, Execution*, you ſent Officiouſly for a *Hang-man* to come down to you ; your Commiſſion gave you no power for this, the Death of the King you know how it was Deſigned,you know the Act for the bringing in of that Commiſſion (as they cal'd it) to ſit in Juſtice was after the Houſe of Commons was reduced to a very ſmall Number, and ſome of thoſe diſſenting too, what you did Act under that Authority, if you can juſtifie it, in the Name of God ſay ſo, but do not Engage the Nation in thoſe things which they abhorred and by the mercy of God are laid aſleep.

Mr. *Juſtice Foſter*. You begin at the wrong End, you ought as all men ought to do, Firſt to anſwer the matetr of Fact, and not to put in theſe long dilatory Pleas till you have anſwered the matter of fact, whether thoſe things charged on you be true or not; then if you have any thing further to ſay for your ſelf by way of Excuſe, it will be the time to ſpeak, and not before.

*A*. May it pleaſe your Lordſhips,I humbly conceive I am upon that method to the firſt part of the witneſs,they accuſe me for commanding my ſouldiers in *Weſtminſter-hall*; then I muſt prove my authority, which I have been about to do,and declared the judgement of Parl.

*L. ch. B.* The Court have heard you with a great deal of patience, and that which is not all to the buſineſſe.

*A*. I only refer this as to the authority (I humbly conceive you will give me leave to inſiſt upon this, & how far I may improve it for my own defence,) Here is the Commiſ. by which my L.*Fairfax* acted & that after the King's death, and I acted by the ſame authority he did, I had not been at *Weſtminſter-hall* but on the cōmand of the General.

*Court*. Doth that Commiſſion Authorize you to cry *Juſtice, Juſtice*, and to look up and down to get Witneſſes againſt the King,is that in your Commiſſion.

*Ax*. I am to ſerve and obey all my Superiour Officers, that is my Commiſſion, if I do not, I Die for it by the law of War. *Court*.

*Court.* You are to obey them in their juſt commands, all unjuſt commands are invalid. If our Superiours ſhould command us to undue and irregular things(much more if to the committing of treaſon)we are in each caſe to make uſe our Paſſive not Active obedience.

*Axtell.* Under Eavour, it is not proved, *that I did either Compaſs or Imagine the Kings Death*, that is matter of Fact.

*Court.* Let us try that.

*Axt.* My Lord, I did nothing but as a meer Souldier, I had Authority from the Gen. I would leave this before your Lordſhips & the Jury that what I have done hath been by Authority of the General.

*L. Hollis.* Sir a word to you. If you could ſatisfie the Court that you had received a Commiſſion from the General to do thoſe things with which you ſtand charged, it were ſomething,then were it proper for you to plead it, and the Court to judge.Pray take this along with you, the General gave you no ſuch command, what you are charged with in the indictment *is for Compaſſing and Imagining the Death of the K.* and that by ſuch and ſuch overt acts,as making your Souldiers cry out *Juſtice* and *Execution*, for being active and forward in ſending for the *Executioner* and ſuch other Acts, prove theſe are in your *Commiſſion* ad you ſay ſomething; *I* am ſure you cannot be ignorant that that very Authority that you do now urge to give life and power to your Actions,that you deſtroyed it,laid it in the duſt, acted contrary to it ſeveral wayes, when the Parliament proteſted againſt fetching the King from *Holmeby* as they did, when they went on proceeding in the way of peace, then came you up to the Bar *(I* think you your ſelf) and charged ſome of the Members, firſt 11 as Rotten Members, and theſe men were forced away; this you know your General had no Comiſſion to do, and this you know was a Violation of that power that gave our General the Commiſſion. After that when the Treaty was brought on in the *Ile of Wight*, when there was great hopes of peace,then you knew the King was hurried thence by Force, which the Parliament proteſted againſt. After that when both the Houſe of Commons and Lords came to conſider of one particular that paſſed, they reſolved that it was ſufficient ground to proceed on for the ſettlement of peace; then did you fall upon theſe Houſes and tear them in pieces, and throw out about 200, ſuffering onely about 40 to remain, and they were glad to ſend for one Member out of priſon to make up a Houſe. That which you ſay of the Supream Authority, and that by Vertue of which you did Act; it ſhewes that you did not at all go by any Authority, but you

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followed your own luſts; and therefore do not ſow theſe Fig leaves together, which will ſtand you in no ſtead; if you would apply your ſelf to anſwer that which you ſtand charged with, it were ſomething.

*Ax.* I do deſire to have no more interruptions then is meet in making my own Defence. My Lord Here are many things by way of motive, urged to the Jury, which is not within the Charge, I deſire I may have that fair play *that nothing may be urg'd but what is in the charge.*

*L. ch. Bar.* You give the occaſion Mr. *Axtell*, keep to the matter and you ſhall not be interrupted.

*Lord Hollis.* I ſhall be very ſorry to urge any thing againſt you which doth not neceſſarily follow; for what you ſay touching your Authority, I ſhall ſhew you have no Authority.

*Axtell.* My Lord, I have the ſame Commiſſion as the Generall; what I did was not of my own head: I had a command; As for all that hath been charged againſt me, I ſhall ſay this; I was none of the Court, I did not fetch the King from the *Iſle of Wight*, nor adviſed, compaſſed, or imagined his Death, or ſentenced him to Death, or ſigned the Warrant for his Execution, or Executed Him; I am none of them. My Lords, and therefore whoever did make any breach upon the Houſe of Commons, they were Grandees, perſons of a greater Quality; I was an inferior Officer, I was never at the Houſe Bar, but upon preſenting one Petition to the Parliament from the Army. I ſhall now come to ſpeak to the Obedience which hath been given particularly againſt me; And the firſt, my *Lord*, is Mr. *Sympſon*, He ſaith, I had the commands of the Guards at *Weſtminſter-hall.* My *Lords*, I have told you already, ſhewn you by what Authority I came thither, and that I ought not to refuſe; if I had, according to the laws of war, I muſt have ſuffer'd death; and that is all as to Mr. *Sympſon*, only that a Lady (he knows not who) ſpake ſomething there.

*L. ch. Bar.* He ſaith, he heard you bid the Souldiers give fire againſt the Lady.

*Ax.* My Lord, I muſt ſay, if there was any Lady that did ſpeak, who ſhe was, I know no more then the leaſt child here: but my Lord, to ſilence a Lady, *I* ſuppoſe is no Treaſon. If a Lady will talk impertinently, it is no Treaſon to bid her hold her tongue.

*L. ch. Bar.* A Lady was ſpeaking pertinently enough, when ſhe heard *Bradſhaw* ſay to the King, ſuch a Charge is exhibited a charge of High Treaſon aginſt Him, *in the Name of the Commons aſſembled in Parliament, and the good people of England*; ſhe ſaid, *That was a Lye, not half, not a quarter of the people of England, That* Oliver Cromwell

Cromwell *was a Traytor* ; then you took upon you to command Souldiers to fire at her ; and accordingly they levelled the Muzles of their Muſquets towards her.

*Axtell*, My *Lord*, as to that particular concerning *Oliver Cromwell*, or any other words concerning the Court, I underſtand them not ; but if any interruption was made, to preſerve the peace, to deſire a woman to hold her tongue, is no Treaſon. To the next particular wherein Col. *Huncks* ſaith, at a dore at a certain lodging where *Ireton* and *Harriſon* were in Bed together, He ſaith, that upon his refuſal to ſign the Warrant for executing the King, I ſaid to him, Col. *Huncks*, *I am aſhamed of you, the Ship is now coming into Harbour and will you ſtrike Sayl before we come to Anchor ?* Truly my *Lord*, I think all that amounts to nothing, if it were ſo, which I deny it ; for to bring the Ship into Harbor, what is that ? there is no Perſon named, Fact named, nor Deſigne named ? and *I* appeal to my conſcience, I remember not the time, place, perſon, or words ; and *I* can call for Col. *Phayre* and Col. *Hacker*, who were there ; for *I* deſire things may appear right, *I* deſire they two perſons may be called for their evidence in that point.

*L. ch. Bar.* They both are in the ſame condition, Col. *Hacker* in the priſon behind you, Col. *Phayre* in the Tower ; Mr. *Axtell*, you know the ſtrength of one Affirmative witneſſe, *I* ſaw ſuch a man, and heard ſuch a man ſay, *&c.* is more then if twenty ſhould witneſs they ſtood by, but did not ſee him, or hear him ſpeak.

*Ax. My Lord*, He ſaith only this, *I* ſaw you at the dore going unto *Ireton*'s chamber, and ſaid, *will you ſtrike Sayl*, &c. Truly my Lord, he doth not ſay, what, or how, or any thing *I* meant ; there muſt be according to Sir *Edward Cook*'s *7th.* Book of his *Inſtitutes*, that Oracle of the law ; He ſaith, *That Evidence ought to be as clear as the Sun at noon-day* : All that you can ſay is this ; It muſt be a wiſe Inference, a large Inference, *I* conceive there is nothing in theſe two Witneſſes, and if the two priſoners were here, they would clear me in this.

*L. ch. B. If* by law you could have had them, you ſhould ; but *I* fear if they could be admittted, they would not be to your advantage.

*Ax.* Then my Lord, in the next place, Col. *Temple* is pleaſed to ſay, that the Lady *Fairfax* ſaying ſomething againſt the Court (which in truth as *I* ſaid before *I* know not why it was or what the words were) he ſaith, *I* bid fire againſt them ; *I* did nothing but what *I* was commanded upon pain of death, to preſerve peace, and in purſuance of that command from the ſuperior Officers of the Army, ſilence was required,

required, and that was all that was done. I ſuppoſe where a man is commanded to keep ſilence, as the Sheriff is required to keep all at peace in a Court; if he reſtrain a perſon that will not be quiet, it is not Treaſon in him, nor in me in this particular. My Lord, in the next place, Mr. *Temple* is pleaſed to ſay, that I ſtood upon the pavement laughing, while others ſighed; Truly my Lord, I know not whether I ſaw the Gentlemam or no; certainly ſmiling is no treaſon, if I did ſo, though I believe I had as great a ſenſe that day as many other perſons there; this is the ſame of that he ſaith, only he further adds, that I bid the Souldiers cry for *Juſtice*, truly my Lord——

*L. ch. Bar.* Becauſe it may be your Notes are ſhort, I will acquaint you there was a little more in it, he ſaid you bid the Souldiers cry out, *Juſtice*, *Juſtice*; and they coming not very readily to it, you ſtruck ſome of them till they with your ſelf cryed *Juſtice*, *Juſtice*, till they with your ſelf did it.

*Axtell.* My Lord, to that I anſwer, that in the Hall there was ſome kind of people did ſet up a crying ſome kind of words, and may be ſome of the Souldiers may cry ſo too, I might command them to hold their Tongues, and to ſay I'le teach you to cry Juſtice; and ſo the Gentleman ſtanding by, might believe I was the perſon that bid them doe it: truly my *L*ord, is this all that the Gentleman ſayes, which I humbly conceive is nothing, becauſe he does not ſay againſt any perſon; and therefore my Lord, I doe hold to that Maxim in the Law, as Sir *Edw. Cooke* holds (that man of great parts of learning and knowledge,) *That in matters of Treaſon wherein a man is the moſt highlieſt concern'd in his life and poſterity, there ought not to be conſtrued againſt him Inferences or preſumptions or ſtrains of wit*; there is no more in this, and this is all that I ſay in this particular. In the next place, Mr. *Temple* is pleaſed to ſay, that after the Court had ſentenced his Majeſty, he was hurried away in a *Cedan*: Truly, whether he was or not I know not, There was a Guard of Halbertiers, whereof Col. *Huncks* was one, and ſeveral others as I have heard; they were ſelect Guards of his Majeſty, Guarding him from St. *James*'s to other places: how he came to be hurried I know not, it was not by me: and whereas he ſayes, during the whole tryal, I was there, truly I think *I* was there by command of my General by Authority of the Lords and Commons.

*L. ch. Bar.* You ſpeak this, that the Jury may underſtand you did it by command of your General. Do you mean by expreſs command?

*Axt.* I did not move a day but by ſpecial command. *L. ch.*

L. *ch. Bar.* By whom!

*Axtell.* The Lord *Fairfax* gave his Orders every morning to his Adjutant General, or Major General, and they iſſued them out to ſuch and ſuch perſons as he appoints.

L. *ch. Bar.* Who gave theſe orders out?

*Axtell.* The Lord *Fairfax*, we did all under him.

L. *ch. Bar.* You had not the order immediately from him.

*Axt.* The Maj. General had.

L. *ch. Bar:* What Maj. General gave you that Order.

*Axt.* There was *Cromwell* and *Ireton.*

L. *ch. Bar.* The Lord *Fairfax* gave you no immediate Commiſſion.

*Axtell.* He gave my Superiour Officers.

L. *ch. Bar.* How do you know that?

*Axt.* My Lord becauſe they told me ſo, it was by his command.

L. *ch. Bar.* The queſtion is now underſtood.

*Axt.* The next perſon that speaks is Mr. *Bodurdo*, and he ſays that I commanded the Souldiers at the Kings Tryal, and that a Lady that was ſpeaking was commanded ſilence, to this purpoſe, Truly (my Lord) this is but the ſame as before.

L. *ch. Bar.* You ſaid *ſhoot* too.

*Axt.* No (my Lord) I ſaid not any ſuch word, or any thing like ‘t, I heard there was an Officer went up and intreated her to be ſilent, I ſay it is the ſame with the former, it is no Treaſon to deſire one to be ſilent. My Lord the next witneſſe that ſpeaks in Evidence againſt me is Mr. *Young*, he ſayes this, I bid the Souldiers cry for Juſtice, It is very like that that perſon as well as Mr. *Temple* might ſee me in the croud ſpeaking to make the Souldiers quiet, I might repeat the words that the people ſaid, repeat the word Juſtice, or ſome ſuch word, as the peoples words.

L. *ch. Bar.* Remember how he repeats them, he ſaw you active in ſetting on the Souldiers to cry Juſtice.

*Axtell.* If I have taken them right, one ſayes he heard me ſay ſuch words as Juſtice, and that he ſaw me ſtrike two or three Souldiers; if in the Tumult, ſuch a word ſhould be ſtarted, I hearing of them, I might ſtrike thoſe Souldiers that ſaid Juſtice, Juſtice, and might repeat the words, *I'le give you Juſtice* and ſo ſtrike them, that is a good Evidence that it might be a repetition of their words and not any of mine own: They both ſpeak as to the word Juſtice, but here was not Juſtice mentioned to any perſon, I might

repeat their own words, and chaſtiſe them for thoſe words, beſides this, (though I doe not ſay the word was ſpoken by me) if the word *Juſtice* had been ſpoken, *My Lord* I hope it is no Treaſon to ſay, deſire Juſtice, *it is Gods Attribute, it is Gods great Ordinance and that can be no Treaſon.* I have read in *Law* Books (though but lately) and I cannot find that the word Juſtice ſhould be made Treaſon, Then there is no perſon to whom that adjunct doth belong. The next Evidence *My Lord* is Cap. *Jeonar*, he ſaith I commanded a Guard, truly ſeveral Regiments took their turnes as they were commanded by the General, and I as an Inferior Officer was there, but that is no more then what was ſaid before, it was done by the Authority of the General; If I had not done it, I had dyed by the Law of War; he ſaith there was a cry for Juſtice, I can ſay nothing more then I have formerly ſaid, it may be in the Tumult the Souldiers might ſay ſo, and I chaſtiſing of them, and repeating that in my chaſtiſement, they might think they were my own words.

*L. ch. Bar.* Mr. *Axtell* I would help your Memory, he Swears the laſt day you encouraged the Souldiers to cry *Execution, Execution.*

*Axt.* For that particular I am coming to it, (*I thank your Lordſhip for helping me*) *My Lord*, for that of Execution, truly I cannot ſay whether I was there that day or no; one day I was commanded to be there with ſome companies in *Weſtminſter-Hall*, but whether I was there any more then that one time, is the Queſtion; Admit I was there that day; I was never there but when I was commanded, when the Colonel that commanded the Regiment was there, I as an Inferior Officer ought to be there; I was there by a ſpecial Order, and not by a Voluntary Act of mine own, and ſo it cannot be *Compaſſing the Death of the King.* For to the word *Execution*, what can be the ſenſe of this word, *Execution* is a ſingle word, thoſe people that ſtarted the word *Juſtice*, might put it in the heads of the Souldiers, which I might ſtrike to command ſilence, they likewiſe might upon the ſame account cry out *Execution*; and ſo to hinder all Tumults and Hubbubs and the like in the place, I might repeat their words in correcting of them for it, I might ſay, *I'le Juſtice you, I'le Execution you*, but *My Lord* this word *Execution of Juſtice* it is a glorious word, not that there can be an inference that what they did I ſhould ſay was Juſtice, or to approve of any thing that they did, but only in General *Execution of Juſtice*, which my Lord relates not to any perſon, poſſibly the rude people might be ſpeaking (as it hath been ſaid before) in in that manner, and the Souldiers might take it up, and *I* might re-

prove

prove them, and make uſe of their own words by words of repetition *I will Juſtice you, I will Execution you.*

My Lord, in the next place, I do obſerve to ſpeak that of Mr. *Burden*, he did obſerve to your Lordſhips and the Jury, my Countrymen, my Brethren, with whom are the iſſues of life and death, for whoſe life they muſt anſwer before the Lord as to Righteouſneſſe, Judgement and Equity; I ſay my Lord, as to Mr. *Burden*, he tells you, that for my ſake, he was impriſoned; ſaith he, *I have ſuffered much by him*, and ſpeaks it with much indignation of ſpirit, I have ſuffered and been impriſoned by him, and afterwards he comes to ſpeak his Evidence; how much his evidence may be of Force, I deſire, my Lord, the Jury may conſider of that; and then he comes and ſaith, I commanded a Guard at the Banqueting-houſe in *Whitehall*. Truly my Lord, the Lord *Fairfax* commanded a Regiment to quarter there, and I as an inferior Officer, might be there: In the next place, my Lord, he ſaith, I ſent *Eliſha Axtell* to fetch the Hangman; truly my Lord, I wonder this perſon is come from *Ireland*, (if this were ſo) the Authority there would not ſend that perſon with his great evidence as well as this perſon; he may as well charge any perſon with this as me: It is evident, *Ireton*, *Harriſon*, and *Cromwell*, they did all amongſt themſelves; I never was with them, amongſt them, received no command from them, nor obeyed them; nor did any thing but what I had command for from the General, who by the law, I was bound to obey as a Souldier. I ſhal onely obſerve one thing more; this perſon being ſo long a priſoner, to extricate himſelf out of his impriſonment and chaines, poor man! he may ſay more then is true? I wonder he ſhould ſay I ſent for the Executioner, I never knew of any circumſtance touching conſultion about His Death, or took him Priſoner. When they ſent to me to be one of His Guard, I never would go; I humbly conceive there is nothing ſticks upon me in this, conſidering the circumſtances and the words of the perſon that ſpoke them.

My Lord, the next Witneſs that ſpeaks againſt me, is Mr. *Cooke*, and he ſaith, he heard me ſay, *Thruſt that Lady down that made a diſturbance in the Court*, or words to that purpoſe: It is probable there might be a deſire of ſilence. The next Evidence is Lt. Col. *Nelſon*, He ſaith that upon a Diſcourſe———

*L. ch.* B. I would put you in remembrance, leſt you ſhould forget what Sir *Purback Temple* ſaid, That by leave of perſons under your Command, *he ſaw the Body of the King*. It is only a Circumſtance.

*Axtell.* I have heard there were Chirurgions, Phitiſians and Halberdeers, appointed by whom I know not, they had the care of ſuch things, and had the keeping of him, he was locked up by them, no body could come in but by them, I never had a Key; poſſibly Col. *Temple* might come to me quartering there, and deſire me to ſpeak to ſome perſons that had the charge of it to let him in, whether I did or no I cannot remember, but if it were ſo, I hope it will not amount to Treaſon. The laſt thing given in Evidence againſt me is Mr. *Nelſon*, he ſaith that upon ſome diſcourſe between us, he was asking what perſon cut off the Kings head, and that I ſhould ſay *Hewlet*, &c. Truly my Lord I was never privy, and I appeal to Mr. *Ruſhworth* if he were here, who was Secretary, if ever he ſaw me in any Counſel to adviſe or Act or any thing in that kind in relation to the Kings Tryal, Sentence or Execution; for me to know the perſon that was imployed about the Execution, it is ſtrange when (as I ſaid before) they did all within themſelves. I had no knowledge thereof, and medled not with any thing, but within my own Sphear, as a Souldier under my L. *Fairfax*, by Authority of Parliament, for naming of any perſon; truly my Lord it would be a wonder to me that I ſhould name any perſon, to go to do any perſon that wrong and injury to ſay he was the perſon, I muſt invent it, for I knew nothing of it, but by common fame up and down the City. *It* was ſaid to be another perſon, but who it was I cannot ſay my Lord, but to all this that hath been ſaid againſt me, there are but two things upon two Witneſſes that are placed upon me, the Firſt my Lord here is two Witneſſes for crying *Juſtice and Execution.*

*L. ch. Bar.* I think you have more then two to thoſe words.

*A* Not for both together. *L. ch. B* No but ſeveral for Juſtice.

*A.* There is three to that, *I* ſhall onely ſay this to your Lordſhip, and this Jury in whoſe hand this life of mine is, and is committed to them either to acquit or condemne me, and God knows the hearts of all men, and my innocency and integrity, I ſhall ſay nothing to the Witneſſes, it is a day of Temptation; and I deſire the Jury my Countrymen, my fellow Citizens, my Brethren, that they would well conſider of it, the words Execution and Juſtice, admit I had ſaid them (which my Lord I do not I muſt not Grant) there being an uproare of people, there ſuch words might be uſed, and poſſibly Souldiers might take them up from them, and Chaſtiſing the Souldiers I might repeat the words, *I will Juſtice you, I will Execution you.*

*L. ch. Bar.* The Evidence is that you beat them becauſe they did not readily cry *juſtice, juſtice.*

*Axtell.*

*Axtell.* It might be more probable I beat them, becauſe they did do it, I might Chaſtiſe them for doing of it, and repeat it as a reaſon for their Chaſtiſement, and but admitting it was true, which I grant not, yet I hope Juſtice and Execution of Juſtice, as it is ſo great an Attribute of God, by Gods Laws nor Mans Laws is no where made Treaſon, but Mercy attends it, and Judgement attends the contrary; I leave it upon the conſciencies of the Jury, to weigh it carefully how I could be Guilty of *Compaſing or Imagining the death of the King*, when nothing is charged againſt me to be either of Conncel, Sentencing or Signing or to be at the Execution, onely one man as I told you before, he ſpoke ſomething wrathly and that he had ſuffered much, and therefore he is come over now, and ſaith I ſhould ſend for the Executioner, which I never knew of, or had any hand in ſending for, how much validity that hath, I leave to the Jury, if it were ſo, it is not treaſon, for words may make a Heretique, not a Traytor, I ſpeak that by way of preface, I do humbly conceive that theſe being only noted words *Execution* and *Juſtice* the K ng not ſo much as named, nor any thing done to it by me, I ſay I conceive it doth not amount to treaſon by the law; and beſides it is againſt the law of the great Judge, the Judge of Judges; all of us, that are now, and are to come ſhall ſtand before him to receive our deſerts, I ſay it is againſt the Law of God to make me an offender for a word; For a word, I have heard the Judges ſay that the Lawes of *England* are grounded upon the Laws of God, and the Laws of *England* are Laws of mercy, not of rigor; My Lord if a man ſhall be deſtroyed in his Life, in his Poſterity for a word (admit the thing had bee n ſo) I leave upon the Conſciences of my Jury, before the preſence of Jeſus Chriſt, and before whom they and I muſt come to be Rejudged again at the Tribunal; and beſides it is onely words and words uncertain, and Sir *Edw.* Cooke ſaith, he muſt declare plain truth in matter of Treaſon, nothing muſt be taken for Evidence that may be a preſumption or inference, or ſtrain of wit, I hope upon this conſideration that the word juſtice fixed upon me by two witneſſes may be taken up at ſecond or third hand from the people or Souldiers by Chaſtiſing them for the Tumult. Then my Lord in the next place, theſe words were never put into writing, and ſo not Treaſon; then my Lord there was never an overt act done by me, For that Act of Indempnity that his Majeſty and both Houſes of parliament paſſed, wherein they were pleaſed the very laſt to except me, I wonder'd when I came to be excepted of that number, I doe come back to the place where I left, and that is the overt act. My Lord I would only bring it in in this place, when I was excepted by the houſe of Commons, one of the twenty, I was excepted thus not extending to Life, I went up and down free at noon day, I did not hide my ſelf, Ingaging a perſon that was one of his Majeſties ſervants to do me a curteſie, he promiſed he would do it, and contrary to his promiſe he was pleaſed to bring the Kings Warrant to carry me to the Tower, and after that I came to be excepted with that Black Catalogue of excepted perſons, and to be bronght to the Tryall of the Law. Now my Lord, I return to that overt act as it was but words uncertain, and they may be words repeated from the third or the fourth hand, ſoe they were not put in writing; according to that Act of Indempnity which I underſtand the meaning of to be thus, That for their Execrable Treaſons in Sentencing, Signing or otherwiſe Inſtrumental, they are excepted out of this Act and to be Tryed according to the Laws of the Nation; I underſtand that to be Inſtrumentall, to be Inſtrumentally the Executioner of the King, I never had any hand in that. Upon the whole this is the Fact that is proved by two witneſſes, they heard me ſay *Juſtice and Execution*, which muſt relate to the *Execution of Juſtice*, which

which by the Law of God is not Treaſon, eſpecially when there was not the word King; for a word to take away and deſtroy ſo many, my Life, Wife, Children and many Fatherleſſe that are under the Charge of the priſoner at the Bar is very ſad, the words I do not grant but upon ſuch probabilities as I have ſaid; I might repeat them, *I will Juſtice you, I will Execution you*, and then the words were not written, I ſay as Sir *Edw. Cooke* ſaid, they may make a Heretique but not a Traytor, the other part of the Evidence is this, that I was there with Souldiers at *Weſtminſter-Hall*, I muſt ſay if that be Treaſon to be guided by Judgement of Lords and Commons in Parliament, I muſt ſay if that be Treaſon to take up Armes for a parliament upon ſuch Grounds and Expoſitions of the ſtatute which they have made and publiſhed by their own Authority, if I am Guilty under the General, then the parliament would be guilty of Treaſon.

*L. ch. Bar.* That you have ſpoke to—I am loath to interrupt you.

*Axt.* I thank your Lordſhips for informing me, but I was commanded to be there by my General, if I had not gone I muſt have Dyed, I did onely ſtand there for preſervation of the peace, in no other ſenſe, If the General order me to be at ſuch a Randezvous, I muſt be there; if I diſobeyed he would have condemned me by the Law of War. The next things againſt me material are theſe two things, that is that I ſhould ſend one *Eliſha Axtell* for the Executioner, I muſt ſay it is moſt Admirable ſuch things ſhould be laid to my charge, I hope your Lordſhips and the Jury do obſerve, he told you he ſuffered much, and a poor man under his extremities and loſſes and ſufferings, perhaps might ſtart ſome unadviſed words, and being now ſent over may aſcertaine it. But doubtleſſe this *Eliſha Axtell* being in *Ireland*, if by command it had been ſo, would have been ſent over, truly I muſt ſay I had no hand in the buſineſſe, it was left wholy to them amongſt themſelves, and what ever was done, or whatever was ſaid, it was ſaid and done by them, I never was acquainted with any thing of that nature, he ſaith he heard I ſhould ſend *Eliſha Axtell* for an Executioner, if hearſayes may be Treaſon it will be a hard Leſſon; and my Lord, Sir *Edw. Cooke* ſaith there muſt be two witneſſes, here is but one. It comes from ſuch a man, My Lord as the providence of God ——— but I will ſay no more as to that, but pray the Jury will take notice of it.

*L. ch. Bar.* You need not doubt of it, it ſhall be taken notice of, this of Burden.

*Axtell* Now my Lord I have but two or three words more, the ſtatute of the 25*th.* of *Edw.* the Third, it doth intend private perſons, my Lord here is my Commiſſion. *L. ch. Bar.* It is owned, you had it from your General.

*Axtell.* My Lord, his Majeſty is pleaſed to ſay in his Gracious Letter, we do by theſe preſents declare, *That we do grant a free and General pardon to all our ſubjects of what degree or quality whatſoever, who within Fourty dayes after the publiſhing hereof ſhall lay hold upon this our grace and favour, excepting only ſuch perſons as ſhall hereafter be excepted by Parliament, that is a Parliament called by his own Writ. You know this Parliament* ——

*L. Ch. Bar.* Mr. *Axtell*, I would not interrupt you to that, but this very Objection was made by one of the priſoners before, this anſwer was given; Firſt the King's Declaration is not a Pardon in point of Law, it muſt be under the Broad-Seal; but God forbid but it ſhould bind in honour. You inſtanced, in the word Parliament, what was meant by the word Parliament: you muſt know this, the exigency of the Times were ſuch, that there was many Noble Perſon, that took the Advantage to Aſſemble themſelves together to reinſtate the King; they did that which was juſt and lawful, according to the exigency of the Times: This

Decla-

Declaration he ſent to the two Houſes, he called them His two Houſes, ſo that it appears clearly and manifeſtly, they were then ſitting, they being accepted by the King, and owned by Him; and they did ſit in way of Convention, according as a Parliament, and the people took them for a Parliament, and his Majeſty ſent his Letter to them; and theſe are the perſons that have thought fit to except you out of that *Act*.

*Axtell*. My Lord, may I ſpeak to that any further?

*L. ch. Bar*. If you doe, it will be over-ruled.

*Ax*. I ſubmit —— with ſubmiſſion to the providence of God; I did apply to Sir *Harbottle Grimſton* for the Mercy and Favour of his Majeſty, according to his Declaration; and here is Sir *Harbottl*'s own Hand for a Certificate.

*L. ch. Bar*. That is allowed you that you did Claim that benefit within the time but you may remember that it was referred to thoſe two Houſes of Parliament, they were to conſider who was fit for the Pardon, and you are by them Excepted out by Name: Your queſtion now is no more, but *whether Guilty or not guilty*, & theſe are but extravagant Diſcourſes that you ſay otherwiſe, & rather do you harm then good

*Ax*. I hope you will pardon me, my Lord, I hope I have ſpoken to clear the Point; The Fact charged by your Lordſhips and before the Jury; and I hope the Lord will give the Jury a Memory of it, and a right Underſtanding in what I have ſaid for my own Defence. My Lord, the next thing I have to offer, is this, to Expound that Act of Parliament, that it was the intention of his Majeſty and Parliament, that all ſhould be excepted but thoſe guilty of Councelling, Signing or Sentencing. Truly my Lord, I humbly conceive, I being none of thoſe, am not guilty of Treaſon I ſhall only ſpeak one Word to my Jury, That they will remember what I have ſaid, that there is but two Things, two Witneſſes, as to *Juſtice* and *Execution*, that it relates to no perſon but in Generall; and then I do not own the things, but poſſibly they might hear ſuch words, I taking of them up upon a rebound, reproved the ſouldiers; for the other that I ſhould ſend one for the Executioner (he heard ſo) and that I ſhould name who was the Executioner, I would not have that perſon or any other to ſuffer for that,

*L. ch. Bar*. That is not at all preſſed upon you, not as to any Charge.

*Axtell*. I thank your Lordſhip. I am very ignorant.

*L. ch. Bar*. Have you done Sir?

*Ax*. I leave the matter to the Jury, in whoſe hands I and my little Ones, and Family are left, I only ſay this to you, Remember your Anceſtors, remember your Poſterity. I never heard it before that words were Treaſon. In Queen *Maries* time *Throckmorton* was acquitted for words, by the Jury. Gentlemen of the Jury I leave my Caſe, my Life, my All, in your Hands.

*L. ch. Bar*. Gentlemen of the Jury, There hath been ſeveral things offered by the Priſoner at the Bar, as near as my Memory will giue me leave in ſo long a Diſcourſe. I ſhall repeat all things which he ſaith for himſelf, and which are ſaid againſt him. There are ſomething that he ſeems to utter as tending to matter of Law, and ſomethings meerly of Fact, proper only for you of the Jury. For matter of Law, he hath urged ſeveral things for himſelf, not by way of juſtification of the Fact, (I muſt do him that right,) but in excuſe of himſelf, and I hope his conſcience hath ſo wrought upon him, that he is of opinion, the Fact was a horrid Fact, which was ſo indeed..

For that which he hath ſaid for himſelf; Firſt, he doth alledge to have his Commiſſion from the Lord *Fairfax*: My Lord *Fairfax* had his Commiſſion from the

the two houſes of Parliament, and this Gentlemans was in *March* the beginning of the year 1648. he ſaith what he did was in obedience to his ſuperiors, as a ſoldier; that he never conſulted or adviſed about any thing of the tryall or execution of his Majeſty. For this point it hath already been ſpoken to. Gentlemen, for that which hath been ſpoken to at large heretofore I muſt repeat it here that he may know it, That no perſon whatſoever, no Community, not the people either collectively or repreſentatively have any coercive power over the King, neither the *L. Fairfax* his Generall, not he, nor any other perſon could be excuſed for this horrid fact of bringing the King to triall No perſon, as I ſaid before, nor Community have any ſuch power. The Law-books which he hath lately ſeen (and truly he hath imployed his time well in that) the Law-books tell us, that whereas the two *Spencers* had broached a damnable and deteſtable principle, that the hommage was only due to the King in reſpect to his Crown, that if he did not demean himſelf according to ſuch and ſuch rules his ſubjects might rule him by aſperity and ſharpneſs; but this was condemned by two Acts of Parliament, they both appear in my L. *Cooke* in *Calenis* caſe. I do not go to repeat all the evidence that might clear this truth, I ſay, had there been any ſuch thing, but it hath been told him there was no ſuch thing in fact. My L. *Fairfaxes* commiſſion was for the preſervation of the King, as well as for the liberties of the people. The 11. of *Rich.* 2. *Robert de Vere* and others for leavying a war was puniſhed, but this Gent. was not charged for leavying of war. If either of the houſes of Parliament ſhould command ſuch a thing as tends to the death of the King it would be void in it ſelf. Something he let fall of the Parliament not being diſolved. My Maſters, for that you haue heard ſome of my Lords declare how and in what manner this was an Authority of Parliament, but it was clearly nothing at all, this Gentleman goes by Vertue of a power from the Lord *Fairfax*. The next thing he urges in point of Law was this, he comes by way of Dilemma, ſaith he, either I muſt obey my Generall or dye by the law of war. He goes further, and urges the ſtatute of 11. *Hen.* 7. He comes further and ſaith in the 25. *Edw.* 3. that concerns ſingle perſons, truly it concerns every man. The Indictment you ſee how it is laid, *It is for imagining and compaſſing the death of the King.* The overacts in the Indictment you have heard what they are, there muſt be more then one witneſs for Treaſon. It is very true, but if one perſon proue one thing, another perſon another, if one ſwear he did cry *Juſtice, Juſtice, Execution, execution,* and another ſwear ſome other part, Gentlemen this was here before delivered to you for an overact. It is any thing that opens and makes it appeare to the Jury that he did do the things for which he is indicted, I ſay any one of theſe that they did meet together, and did couſult in order to the putting the King to death. That they did meet in a trayterous Aſſembly about the Kings death. I ſhall ſay no more, you need not I think go from the Bar.

*The Jury go together, and after a little conſultation among themſelves, they returned to their places.*

*Clerk of the Crown*, Gentlemen of the Jury are you agreed of your verdict.

*Jury*. Yes.

*Cl.* Who ſhall ſay for you? *Jury*. Foreman.

*Cl. Daniel Axtell* hold up thy hand. Gent. Look upon the priſoner at the Bar: How ſay you, is he guilty of the high Treaſon whereof he ſtands Indicted, and hath been arraigned, or not guilty? *Foreman*. Guilty.

*Cl.* Look to him Keeper. What Goods and Chattels.

*Jury*. None to our knowledge.

## The Tryal of Colonel *Hacker* the ſame day 15. *Octob.* 1660.

*Clerk of the Crown*, Set *Francis Hacker* to the bar: ( which was done accordingly. )

*Cl. Fr. Hacker*, hold up thy hand. Theſe men that were laſt called are to paſſe upon you, &c. If you will challenge all or any of them, you muſt challeng them when they come to the book, before they are ſworn.

*Lord chief Baron*, You may challenge 35 peremptorily, but no more.

*Hacker*, My Lord, I ſhall challeng none.

*Tho. Bide, Rob. Sheppard, Will. Dod*, Sr. *Tho. Allein*, Sir *Hen. Wroth Tho. Morris, Ralph Halſal, John Galliard, John Nicol, Tho. Uſman, Tho. Nicoll, Chriſtopher Abdy*, in all Twelve. The Jury called and ſworn.

*Cl. of the crown*, Proclamation, if any man can informe my Lords the Kings Juſtices, &c.

*Cl. Francis Hacker*, hold up thy hand; look upon the Priſoner, you that are ſworn of this Jury. You ſhall underſtand that *F. Hacker* priſoner at the bar ſtands indicted, &c.

Mr. Serj. *Keeling*, My Lords, and Gentlemen of this Jury, *Francis Hacker*, the priſoner at the bar, ſtands indicted, amongſt others, for compaſſing and imagining the death of the late King *Charles* the Firſt of happy Memory. The compaſſing and imagining is the Treaſon it ſelf: the other points, as *convening, aſſembling, meeting, together*, and the actual villany that followed all theſe are but as Evidences of that imagination. As to this perſon at the bar our Evidence will lie thus. We ſhall make it appear to you, that he was one of the perſons that were upon the Guard, and kept the King a Priſoner, that he might be ſure to be brought to that *Mock-Court of Injuſtice*. Then it will appear to you, That this Priſoner at the bar was highly truſted by all thoſe Miſcreants that thirſted for the Kings blood, by their bloody Warrant directed to him and others, to take the Kings Perſon into cuſtody, and to ſee Execution done. This was the perſon that kept him till he brought him to that fatal ſtage. That this warrant was lately brought from

his own houſe by his own wife to the houſe of Lords, and then we ſhall ſhew you that this perſon ſet his hand to the warrant to the Executioner for Execution. That he did not do it ignorantly nor unwillingly; for he heard the warrant read: we ſhall make it appear that he was upon the *Scaffold*, and had the ax in his hand.

*Councell.* Cryer, call *Holland*, *Sympſon*, Col. *Tomlinſon*, Mr. *Nunnelly*, Mr. *Nutly*, *Hercules Huncks*, and *Benjamin Francis*, who were all ſworn as witneſſes.

*Councell.* Mr. *Sympſon*, ſpeak your knowledge of the employment of the priſoner touching the tryal and Execution of the King.

*Hacker.* My Lords, I will confeſs what I know in this caſe, to ſave your Lordſhips the trouble. I confeſs I was upon the Guard, and had a warrant to keep the King for his Execution (*the Warrant being ſhewen to the priſoner, he confeſſed that to be the Warrant.*)

*Councell.* After you had that warrant brought to you, did you by vertue of that direct another Warrant for Execution of the King? Did you not take the King (then priſoner) from the cuſtody of Colonel *Tomlinſon*?

*Hacker.* No Sir.

*Councell.* We ſhall prove it, the warrant was read, *At the High Court of Juſtice for Tryal*, &c. My Lord at the time that this warrant vvas ſigned, the perſon of the King vvas in the cuſtody of Col. *Tomlinſon*, did not you take and demand from Col. *Tomlinſon* the perſon of the King as ſoon as you received that vvarrant?

*Hacker.* No Sir I demanded him not.

*Councell.* Col. *Tomlinſon* tell my Lords the manner of that buſineſs.

*Tomlinſon.* My Lords and Gentlemen of this Jury, I ſhall as my memory enables me, make a faithfull Narrative of this buſineſs: I had indeed to do vvith the guard, that had to do vvith the perſon of the King about *St. Jameſes*. Being then an Officer of the Army, a Colonel of horſe, vvhen the King came to *St. Jameſes*: it vvas obſerved by ſome, that there vvas too great an acceſs of people admitted to the King, and vvithin one day or tvvo after, there vvas a party of Halberteers appointed for the ſtricter obſerving the guard; they vvere commanded by three Gentlemen, of whom this priſoner

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at the bar was one; the orders every day for removing the perſon of the King were commonly directed to four perſons and thoſe were my ſelf, *L.Col. Cobbet*, Cap. *Merryman*, and one more: but the guards that ſtill went along were the Halberteers. So that every day when the King did go to *Weſtminſter*, he went to Sr. *Robert Cottons* Houſe, and ſo far *I* went with him and no farther. I never went with him nor ſaw him at that pretended High-Court of Juſtice. When he uſed to go to the High Court of Juſtice, commonly (every time indeed) the Serjeant, *Serjeant Dendy* (as *I* remember his name was) he uſed to come and demand, that the King ſhould go to the High Court of Juſtice, and Col. *Hacker* did ordinarly go with him, with the Halberteers. *It* was my cuſtom to ſtay in the room till he came back again, theſe Orders continued, during the time of his tryal. After the *Sentence* was given, on the day whereon the *Execution* was to be done, it was ordered (which order may be produced if ſignificant) that the guards that were for ſecurity of the perſon of the King, ſhould ceaſe when a Warrant from the *H.* Court of Juſtice for the *Execution* ſhould be produced; I would not omit any thing that *I* well remember, and this *I* remember, that the night before the Execution, the King called me into his Chamber and told me ſeveral things; I will take the occaſion to trouble you with a ſhort diſcourſe of it, he told me of ſome legacies he had given, he told me he had prepared ſomething that he would ſpeak the next day, and in the cloſe of it he deſired me, that I would not leave him (for I ſpeak it in truth) there were many times ſeveral incivilities offered to him, and though I was upon a duty, that was of a harſh and unpleaſing nature to me, and did deſire ſeveral times to be releaſed from it, (as *I* believe is well known to ſome) yet I did not admit at any time that any incivility ſhould be offered to him; people would take Tobacco before him, and keep their hats on before him, *I* alwaies checkued them for it, he was pleaſed to have a conſideration of that care, that *I* had in that capacity *I* then ſtood. That very night before his death he was pleaſed to give me a *Legacy*, which was a gold tooth-picker and caſe, that he kept in his pocket. The next day when the Warraut came, the guard of *H*alberteers went with him through St. *Jameſes* Park, I was preſent walking neer the King, the Biſhop of *London* (now of *Canterbury*) was with him and ſome others. As we were going

thorough the Park, he was pleaſed to diſcourſe ſomething of what he had been diſcourſing before touching his burial, he wiſhed that the Duke of *Richmond* and ſome others that he ſhould bring ſhould take care of it. That morning in the Park, he told me he had been thinking of what he had ſaid the night before. He told me he had ſome thoughts that his Son might come to bury him, and deſired he might not ſuddenly be buryed; I gave him aſſurance I would communicate his deſire, and ſo *I* did: when he came to *Whitehall* he went into a room in the Gallery (*I* know not the name) the guard ſtood in the outer room there. There was a Gent. that came to me there, & told me he was endeavouring to preſent a Letter from the Prince to the King, & told me he could not get an opportunity, *I* ſaid he ſhould not want an opportunity if *I* could help him, it was Mr. *Hen. Seymor*, it was delivered and the King read it, and he gave ſeveral things in charge to Mr. *Seymor* to acquaint the Prince with, and was pleaſed to mention to him, ſomthing of civility that I had ſhewn him in his impriſonment, the effect and fruit of it I find, and do moſt humbly acknowledg before al the world my thanks to his moſt gracious Majeſty the King & to the Lords & Commons. After Mr. *Seymor* was gone from him, (I do not well remember the time, whether it was twelve, one, or two, a clock,) Col. *Hacker* came in, and there was preſent with him the two other Gentlemen that were named in the warrant (as I remember) *I* am ſure Col. *Hacker* (if my memory fail me not) did produce the warrant. My ſelf and thoſe Gentlemen that were concerned in the former orders looked upon this warrant; By which the Orders which we had were at an end. *I* muſt confeſs, *I* did not nor none of thoſe did tell him that the orders for ſecurity of his perſon were at an end, but Col. *Hacker* did go in to him, and after a litle while Col. *Hacker* comes to the door, and the King was coming forth, and he told me that the King deſired *I* ſhould go along with him; and indeed the night before when the King told me that he had prepared ſomething to ſpeak, he deſired I would not leave him. So Col. *Hacker* led him forth, the Biſhop of *London* followed him, and *I* followed the Biſhop of *London*, the guards were prepared without, and they went on to the Scaffold; when we came to the Scaffold *I* went ſo farr as to the entrance upon it, the King was upon it and had looked a litle while about it, and was thinking to have ſpoken over, but he turned about to me and began

to

to direct his ſpeech to me: *I* cannot trouble you with what the King ſaid, for *I* cannot remember it, but that Col. *Hacker* was there in proſecution of that Warrant, and upon that warrant our orders were at an end I do aver.

*Councell*, You delivered him upon that Warrant did you?

*Toml.* He went and received the King upon that warrant; it was a chamber that was known then by the name of the horn-Chamber, and there the King was in the inner room: this is the ſubſtance of all.

*Councell.* We will trouble you with one or two witneſſes more.

*Councel.* Mr. *Tomlinſon*, did Mr. *Hacker* or his Souldiers take Tobacco to the Offence of the *King*.

*Toml. I* do not ſay that any tobacco was taken there by Mr. *Hacker*, but the Souldiers would be ſtepping in, and take tobacco at his chamber in *St. Jameſes*, and committed other incivilities.

*Councell.* We have proved, that the Priſoner did demand, and had the perſon of the *King*: now we will prove to you, that himſelf had the boldneſs to make a Warrant in purſuance of the former, for execution of the King,

*Councell.* Cryer call Mr. *Huncks*.

(He *being ſworn ſaid.*)

*Huncks.* My Lords, and Gentlemen of the Jury, that day the *King* dyed, a litle before the hour he dyed, *I* was in *Iretons* chamber, where *Ireton*, and *Harriſon*, were in bed together, there was *Cromwel*, Colonel *Hacker*, Lieutenant Colonel *Phayer*, *Axtell*, and my ſelf ſtanding at the door, this Warrant for the execution was there produced, and you (looking upon *Mr. Hacker* at the bar) were reading of it, but *Cromwell* addreſſed himſelf to me, commanding me by vertue of that Warrant, to draw up an order for the Executioner; *I* refuſed it, and upon refuſing of it there happened ſome croſs paſſages. *Cromwell* would have no delay. There was a litle table that ſtood by the door, and pen, ink, and paper being there, *Cromwell* ſtepped and writ, (*I* conceive he wrote that which he would have had me to write) as ſoon as he had done writing, he gives the pen over to *Hacker*, *Hacker* he ſtoops and did write (*I* cannot ſay what he writ), away goes *Cromwel*, and then *Axtel*; We all vvent out, aftervvards they vvent into another room;

*Council.* What followed?

*Huncks*

*Huncks*. Immediately the King came out and was murthered.

Mr. *Secretary Morice*, Mr. *Huncks*, you did tell us in the Tower (when we were ſent by his Majeſties Councel to examine you, and others there) that Col. *Hacker* did then ſign that warrant for nominating and appointing the execution.

*Huncks*, My Lord, *Cromwel* comes to me, and bids me write a Warrant for that purpoſe; I refuſing of it, *Cromwel* writes himſelf, and *Hacker* writing to the ſame paper, what ſhould I conceive, but that it was the Warrant? (the King preſently after coming to *Scaffold*.)

*Councel*, Did *Cromwel* give you no bad names, becauſe you would not write that order? Did not he ſay you were a Coward?

*Hunks*. He ſaid *I* was a froward peeviſh fellow.

*Councel*, Did *Hacker* only write his name, or give directions in the drawing up of the Order.

*H. I* conceive he only writ his name.

*Councel*, My Lord, we have only that eye-witneſſe.

H. *Hacker* confeſſed to the Gentleman-Jaylor of the Tower, that if he did do it, he did it by order.

*Mr. Secr.* Morice, *and the L.* Anneſly *ſworn*

*Councel*, *Mr, Secretary*, we deſire you will be pleaſed to tell my Lords what Col. *Hacker*, the Priſoner at the bar, did confeſs to you and others touching this buſineſs.

Mr. *Secretary*, When Collonel *Huncks* (for that title he now aſſumes) was brought over out of *Ireland*, and committed to the Tower of *London*, there vvas three of the Council, by order of the Board, ſent to examine him, *Sir. Anthony Aſhly Cooper*, *Mr. Anneſly* & my ſelf: *In* obedience to that order, vve repaired to the Tovver, and had Colonel *Huncks* brought before us, vve told him, that he (being one of thoſe vvhich vvas appointed by vvarrant from the ſuppoſititious high Court of Juſtice, to carry on the execution of the King and ſee it done) muſt needs knovv vvho vvas the Executioner: vvhereunto he anſvvered, that he for his part did not knovv vvho vvas the Executioner; for the Warrant vvhereby the Executioner vvas nominated and appointed, vvas refuſed to be ſigned by him, but Col. *Hacker* ſigned it, and therefore Col. *Hacker* muſt knovv it. Accordingly upon our return vve made our Report to the Board, and vpon this there vvas an Order, that Colonel *Hacker* ſhould be

ſent

ſent for, taken into cuſtody and brought before the Lords of the Councill: Accordingly he was apprehended, and the ſame three Councellours were ſent down to examine him. We took him into a private room, and examined him, and told him (amongſt other things) that he being the man that (as we were informed) did ſign the warrant, for the nominating and appointing the Executioner, doubtleſs he muſt needs know who that was, at firſt he ſaid he did not ſign this warrant: I told him, *I* would have him well adviſed what he ſaid. For if you deny it, it will be proved by ſuch a Man, naming Collonel *Huncks*, and that you will do your ſelf a great prejudice if you deny that; ſaith he, *I do believe I did ſign the warrant for appointing the Executioner*, that is all I can ſay.

*Lo. Anneſley* Gentlemen of the Jury, it is very true as you have been told already, that I was amongſt thoſe that the Councill ſent, to the *Tower* of *London*, firſt to examine Collonel *Huncks*, and Mr. *Cook*, that hath been condemned, *Hulet* and ſome other priſoners. We did examine Colonel *Huncks*, and he did by his examination acquit himſelf from ſigning that warrant, that he was charged with, being one of the three, appointed to ſee execution done, but they appointed another, to ſigne the Warrant (Col. *Huncks* refuſing) and upon his refuſal (as he ſaid) *Cromwel* that urged him to it, ſaid he was a cowardly fellow, or ſomething to that purpoſe: when we examined him about the perſon in the *Frock*, he ſaid, he knew nothing of that, but that C. *Hacker* ſigned that warrant for Execution; this examination being reported to the Councill, the Lords ſent for *Hacker*. *I* think upon notice, Colonel *Hacker* came, he had been of the Army and continued till that time an Officer: when he came thither, the Lords of the Council having notice of it, commanded the ſame perſons formerly appointed, to go out and examine him, we had him into a little room, belonging to the Clerks of the Councill, and examined him to that point concerning the Man that cut off the Kings head, whether he knew any thing of it: he did affirm poſitively he did not know, we told him that he was the man, by teſtimony, that ſigned a warrant for execution of the King, and then certainly he muſt know the perſon that he appointed by his warrant; he ſaid, if I did ſign any warrant, it was by command of the General, that being but hypothetical, we thought it meet to make it more poſitive, whereupon

we

we asked him whether he was the Man that ſigned the Warrant or no. Thereupon ( as I remember, and as the examination which was all written with mine own hand doth help my memory ) he did ſay he did believe he did ſign ſuch a Warrant; thereupon he was asked further how could it be poſſible, that he could forget the man if he ſigned the Warrant, he knew who the man was that was appointed, he ſaid for that, that he did believe the warrant was read to him, and that therein the mans name might be, but he could not now remember his name, this was the effect of his examination and confeſſion.

*Councel*, Mr. *Francis*, did you ſee Colonel *Hacker* at the time of the execution upon the Scaffold?

*Francis*, Yes, *I* did ſee him as a principal Commander there, I was comming out of *Weſtminſter* into *London*, about half an hour before the King came upon the Scaffold, coming near the ſcaffold, as ſoon as I was engaged in the throng, ( when I had paſſed above 8 or ten yards )I could not paſſe backward nor forward. I was inforced to ſtand there: during that time, *I* ſaw the ſcaffold and the Ax, and the block, taken up by divers people, and principally I ſaw a man that is not here, he is in cuſtody, *I* ſaw him take it up, and try it with his Thumb, and lay it down, this was *James Berry*, he came off, and came not upon the ſcaffold again unleſs diſguiſed.

*Councel*, Did you ſee *Hacker* there, did you ſee him upon the ſcaffold when the King came on?

*Francis*, I did ſee him, he was there, his Majeſty came to the ſide of the ſcaffold next to St. *Jameſes*; he looked that way and ſmiled, after a while the block and ax lying down about the middle of the ſcaffold, there was a black cloath hung about the rails of the ſcaffold.

*Councel*, We have another Evidence, the Priſoner hath confeſſed enough but we have proved that he had the King in cuſtody, he confeſſed that he believed he did ſign the Warrant, and that he at the time of execution was there to manage it. What do you ſay for your ſelf?

*Hacker*, Truly my Lord, *I* have no more to ſay for my ſelf, but that I was a Souldier and under command, and what *I* did was by that Commiſſion you have read.

L. ch

L. ch. *Baron*, Can you deny any thing that Mr. *Secretary* and Mr. *Anneſly* have declared.

*Hacker*, I cannot tell what I might then ſay, the Gentlemen were very ſtrict with me, truly I have been no Councellour, nor adviſer, nor abettor of it, but in obedience to the command over me I did act. My deſire hath been ever for the welfare of my countrey, and that Civil power might ſtand.

L.ch. *B.* Have you yet reſolved who you gave the Warrant for execution to?

*Hacker*, No my Lord, I delivered none.

*L.* ch. *B.* But you know who it was directed to.

*Hacker*, No indeed my Lord, be pleaſed to ask Col. *Hunks* whether I read this warrant or no.

L. ch. *B.* This is all you have to ſay for your ſelf.

*Hacker*, Yea my Lord.

*L.* ch *Baron*, Then Col. *Hacker*, for that which you ſay for your ſelf, you did it by command, You muſt underſtand that no power on earth could Authorize ſuch a thing. No command in ſuch a caſe can excuſe you: there is a two fold obedience, a paſſive obedience to ſuffer rather than do things unlawful, and an active obedience to do that only which is lawful, and therefore this will not exuſe thoſe unlawful commands.----Gentlemen of the Jury you ſee the Priſoner at the Bar ſtands indicted for compaſſing, and imagining, the death of the late King, and there are ſeveral open Acts ſet forth in the indictment which tend to prove that matter: one is aſſembling and meeting together, another is ſitting upon the King, another ſentencing, & at laſt concludes with the murther, of the King as the conſequence of all. Any thing that tends to the proving of this compaſſing and imagining his death, any one of theſe particulars, that is an evidence to you to prove the whole indictment. This Gentleman was Commander of Halberteers, Col. *Tomlinſon* ſaith, that though he kept the Guards that were about the Kings perſon, this Gentleman with two other perſons, brought Halberteers that there might not be ſuch frequent acceſſe as formerly to the King, there is one Act. He commands theſe *Halberteers* at that time when the buſineſſe was in agitation, before that High Court, as they called it. You ſee after the ſentence was given, that he was one of the perſons to whom the Warrant for execution was directed, you ſee afterwards here was a conſulting together,

*Cromwel*, *Ireton*, *Harriſon*, and *Axtel*, were in the chamber, when Col. *Huncks* refuſed to ſign: the Priſoner ſigned the Warrant, but knows not the perſon, to whom it was directed: you ſee beſides, Col. *Tomlinſons* teſtimony, who ſaith further, that when they were diſcharged, Col. *Hacker* went in and the King vvas brought out preſently after to that Fatal place, Col. *Huncks* ſvvears, that vvhen that Warrant was offered to him he refuſed it, that *Hacker* the Priſoner at the bar, ſigned a warrant, though he doth not remember the name of the perſon to whom; It appears by two witneſſes (honourable perſons) he confeſſed he ſigned it, but he did not know the perſon to whom directed. You ſee another witneſſe; *Benjamin Francis* he ſaith, he ſaw *Hacker* upon the Scaffold with the King.

He doth not deny the fact, you need go no further, it is very plain he had a hand in this buſineſs a principal agent in it, he that brought the King to the Scaffold, he that had the care of managing that buſineſſe, he that ſigned the warrant to the Executioner, either he is guilty of compaſſing the death of the King, or no man can be ſaid to be guilty.

*The Jury went together and after ſome little conſultation, returned to their places.*

*Clerk of the Crown*, Gentlemen of the Jury, are ye agreed on your Verdict?

*Jury*, Yes.

*Clerk*, Who ſhall ſay for you?

*Jury*, Our Foreman.

*Clerk*. *Francis Hacker* hold up thy hand, Gentlemen look upon the Priſoner at the Barr, how ſay you, is he guilty of High Treaſon, whereof he ſtands indicted, and hath been Arraigned, or not Guilty?

*Foreman*, Guiltie.

*Clerk*, Look to him Keeper.

*Clerk*, What Goods and Chattells, &c.

*Jury*, None that we know off.

## *Octob.* 15th. 1660. The Tryal of *William Hulett.*

*Clerk of the Crown.* Set *William Hulett* to the Bar (who was brought accordingly). *William Hulett*, alias *Howlett*, hold up thy hand. Thoſe perſons that were laſt called of the Jury are to paſſe &c. If you will challenge them, or any of them, you muſt challenge them when they come to the Book before they be ſworn.

*L. Ch. Baron.* Underſtand you have power to challenge five and thirty men, and not above, you may challenge them without cauſe ſhewn. If you have cauſe for any other, you may challenge them alſo. If you will have pen, ink, and paper, you may have them.

*Hulett.* Truly my Lord, I cannot write but a very little, I ſhall not need them. I did not underſtand my Indictment well, I deſire to hear it again.

*L. Ch. Baron.* You will hear it read again.

*Clerk.* Sir. *Tho. Allen*, Sir *Henry Wroth*, *Tho. Bide*, *Robert Sheppard*, *Tho. Morris*, *Ralph Halsal*, *John Gallyard*, *John Nicall*, *Tho. Ufman*, *Chiſtopher Abdy*, *Will. Dod*, in all Twelve. Jury called and ſworn

*Clerk of the crown*, *Will.* Hulett, alias *Howlett*, hold up thy hand. You Gentlemen that are ſworn, look upon the Priſoner.

*Clerk*, You ſhall underſtand, that he ſtands indicted of high Treaſon, by the name of *Will.* Hulett, alias *Howlet*, late of *Weſtminſter* in the county of *Middleſex* Gent. for that he as a falſe Traytour, &c. (*here the indictment was read*) Unto which indictment he hath pleaded not guilty, and for his tryal hath put himſelf upon God and the country, which country you are; Now your charge is to inquire, &c.

Sir *Edward Turner*, May it pleaſe your Lordſhips and you Gentlemen that are ſworn of this Jury, we are now entering upon the laſt Act in this ſad tragedy of the murther of the late King, there have been before you ſome of the Judges, the Councel, the Chaplain, and the Guard, this priſoner at the bar, in the laſt place was one of thoſe which came with a frock on his body, and a vi-

zor on his face to do the work. The courſe of our evidence will be this, firſt we ſhall prove by witneſſes that ſaw him, and knew him, that he was thus diſguiſed: he hath confeſt that he was upon the Scaffold, that he hath had ſeveral preferments, and I fear it will appear that it was he that gave that fatal blow, for he hath confeſſed he had an hundred pounds given him for his ſervice therein, and we doubt not, but to pluck off his vizor by and by. The indictment is for compaſſing and imagining the death of his late Majeſty of glorious memory; if we prove to you any circumſtantial *overt-act*, whereby you ſhall be convinced of this, you are to find him guilty.

*Richard Gittens* ſworn,

*Councel*, Mr. *Gittens*, tell my Lord and the Jury what you know touching the Priſoner at the bar.

*Gittens*, The thing is this my Lord, this Gentleman at the bar and my ſelf were both in a Regiment in one Company as Serjeants, about twelve or thirteen years together. About a day or two before the King came to the *Scaffold*, Colonel *Hewſon* did give notice to a Lieutenant, that we ſhould come to him, about 38 of us; and he put us all to our oaths, that we ſhould ſay nothing of what they did; he ſwore us to the book; after he had ſworn us, he asked us if we would undertake to do ſuch an Act, if we would, we ſhould have an hundred pounds down, and preferrment in the Army as long as that ſtood, and the Parliament. Afterwards we refuſed every perſon, we thought Captain *Hulett* did refuſe: after all refuſed, it ſeems, he did undertake to do the deed. When the King was brought on the Scaffold, we were in *Scotland-yard*, and they were upon the Guard in the Banquetting-chamber: when they were there *I* laid down my Armes and got into the company; Captain *Webb* kept the Guard, with his Halbert in his hand, by the Scaffold, and I did buſſle to come near to them; then I returned back. *Hulett* (as far as I can gueſſe) when the King was on the Scaffold, for his execution; and ſaid, Executioner is the block faſt? then he fell upon his knees.

*Councel*, Who did?

*Gittens*, *Hulet*, to ask him forgiveneſſe, by his ſpeech I thought it was he; Captain *Atkins*, who would not undertak to do this act, I told him, I would not do it for all the City of *London*, no nor I

neither

neither for all the world, ſaith *Atkins*; you ſhall ſee *Hulett* quickly come to preferment: and preſently after he was made Captain Lieutenant.

*Councel.* Was he with his Regiment that day?

*Gittens.* We could not ſee him with the Regiment all that day, he was never abſent at any time before.

*Councell.* Did you know his voice?

*Gittens.* Yes Sir.

*Councell.* Did you mark the proportion of his body, or his habit, what diſguiſe he was in?

*Gittens.* He had a pair of freeze trunk breeches, and a vizor, with a gray beard, and after that time Collonel *Hewſon* called him father Gray-beard, and moſt of the Army beſides, he cannot deny it.

*Hulet*, I deſire as to this witneſs, he doth alledge that he and I were Serjeants in one company, which *I* deny, he was not in that company I was in, I deſire to know of him how he comes to know that I was there at that time.

*G.* By your voice.

*Hulet*, I will ſwear that this man was with the Regiment, under the Scaffold, where were you at that time when the act was done?

*G.* Where was I, by Captain *Web?*

*H.* Where was he?

*G.* At the door of the Banquetting houſe.

*H.* Was you on the Scaffold or no ſir?

*G.* I was on the Scaffold end.

*H.* My Lord I deſire you to conſider what this perſon ſaith, he ſaith he was upon the guard in *Scotland* yard, and at the Scaffold with Captain *Web.* My Lord I deſire again, whereas he ſaid *I* had a gray beard, let any man beſides himſelf ſay, that ever *I* was called by that name gray beard throughout the Regiment.

*Stammers* ſworn.

*Councell.* What have you to ſay concerning the priſoner at the Bar?

*St.* He was Captain Lieutenant to Collonel *Hewſons* troop, when I had entred my ſelf into that troop, I was awhile in *Dublin*, and *I* was commanded by the priſoner at the bar, *I* and the reſt to march to a place called *Lutterells* Town, about 5 miles beyond

*Dublin*

*Dublin*, the priſoner at the bar came thither to us 2 dayes after, then being in his chamber, he ſent for me up, *I* went up and ſate down, he examined where *I* had ſerved, *I* told him I did formerly belong to the Lord of *Inchequin*, he asked me if I was ever in the Kings Army, with that he walks about the room two or three turns, ſaith he, I was the man that beheaded King *Charles*, and for doing of it, *I* had an hundred pounds, ſaying, *I* was a Serjeant at that time.

*Hulett*, I deſire to ask him a queſtion, *I* confeſſe ( what is your name? )-----

*Councel*, *Stammer*, his name is *Stammers*.

H. Such a one was under my command. *I* think I have not ſeen you theſe eight years; I deſire to know when theſe words were ſpoken, and the place.

S. I ſay in *Lutterels* town in your ovvn chamber, and that vvas nine or ten years ago.

*H. It* is about eight years agoe ſince *I* left that command; vvho vvas by at that time?

St. No body.

H. *It* is ſtrange. Hovv long had you been in the Troop before?

*St. I* vvas in *Dublin* about a fornights time, then you ſent for me and *I* came to *Lutterells* Tovvn; the firſt time that *I* came to the troop vvas at *Dublin*, and then you came to me vvith tvvo Orders from *Hewſon*, & then you did pretend you was brother to one Mr. *Chambers*, and then we went and quartered in *Lutterells* town.

H. My Lord, his examination in *Ireland* and this doth not agree, you did deny this before *Baldwyn* a Trooper, *I* deſire his examination may be read; (*which was accordingly read, and agreed with the teſtimony now given*) *I* deſire he may mention what man that was that *I* ſent for him.

*S. I* cannot tell what man.

H. My Lord, *I* deſire that ſervant may be either named or produced.

*S. I* cannot remember the man, it is ſeven years ago.

H. Then again upon another accompt, as he ſpeaks before, that *I* ſhould examine him where he had been, and that he ſhould ſay, at the Lord *Inchequins*.

Cap-

## *Captain* Toogood *ſwoorn.*

*Toogood*, I ſhall firſt give your *L*ordſhips and the Jury what I have heard others ſay concerning the Priſoner at the bar, and that is firſt Colonel *Hewſon*: I was in the Year 1650. about *September*, in *Dublin* Caſtle, about ſome buſineſs with *Hewſon*, Captain *Hulett* the priſoner at the bar, came in to the room, he talked with Collonel *Hewſon* a little while, I obſerved them very familiar, and I asked *Hewſon* what he was, he told me he was his Captain *L*ieutenant of horſe, *I* deſired to know where he had him, he told me he made him ſo from a Serjeant, and a very mettled fellow he was, it vvas he that did the Kings buſineſſe for him upon the Scaffold. In the year 1653 there vvas a disbanding of the Army in *Ireland*, this Gentleman vvas then continued Captain *L*ieutenant in *Pretties* Regiment, *I* diſcourſed with *Pretty* concerning him, and one part of it *I* remember, was about the Kings death, and he did till me that he was aſſured by Collonel *Hewſon*, that *Hulett* either cut off the Kings head or held it up, and ſaid, *behold the head of a Traytour*: Colonel *Prettie* would not tell me which of the two it was, but *I* ſaw the perſon that did it, and me thought he did reſemble this perſon. About 12 moneths after *I* came to live near the priſoner in *Ireland*, once I remember at one Mr. *Smiths* at the White-horſe in *Carlow*, I met him there, and I was asking the priſoner at the bar the queſtion, whether he was the man that cut off the Kings head or not, ſaith he, why do you ask me this queſtion? I told him I had heard by ſeveral, namely by *Hewſon* and *Pretty*, upon that he ſaid, well, *what I did I will not be aſhamed of; if it were do again I would do it*; once ſince that time, about half a year afterwards I was in the ſame place, and there talking with him about the Kings death, he was telling me it was true, he was one of the two perſons that was *diſguiſed* upon the Scaffold. I deſired to knovv vvhat if the King had refuſed to ſubmit to the block? ſaith he, there vvere *ſtaples* placed about the Scaffold, and *I* had that about me that vvould have *compelled* him, or vvords to that effect; other times I have heard him ſpeak ſomething to this. *November* the laſt in the Queens Counry at *Maryborough* Col. *Jones* took upon him to be Governour: and to chooſe tvvo out of a Regiment that might be the rulers of the people, Legiſlators, I think they call'd them, I did diſcourſe about the buſineſs again, and did

did oppoſe it all: after a while he began to be very hot in the buſines about *Lambert:* ſaid *I*, you were heretofore too forward, ſayes he, if it be the buſineſs of the Kings head, *I* will never deny it, call me to an account when you will: *I* have obſerved in *Ireland*, that it hath been generally reported, that he was either the man that cut off the Kings Head, or that held it up, as I ſaid before, and I have heard them ſometimes call him *Grandſire Graybeard.*

*Hulett.* My Lord, I do confeſs *I* know the Gentleman very well, we were in a Regiment together, I never diſcourſed with any concerning this, but only once at a place going from *Cullen* to *Munſter*, we did drink at a place called *Goran*; we were diſcourſing about the buſineſs of the King, the juſtification of the cutting off his head; ſaith *Stammers*, I did hear that you were one of the perſons for that purpoſe; ſaid I, they that ſay ſo do me wrong: ſaith he, it is no matter if you were ſo, for it was a juſt act: ſaid *I*, whether it was or no, *I* have nothing to do to juſtifie it, he was ſpeaking as I hope to be ſaved I would have done it.

*Walter Davies* Sworn.

*Councel.* What can you ſay, Mr. *Davies*, to this buſineſs.

*Davies.* Gentlemen, that which I can ſay is this: in *January* laſt was two years, *I* was at *Dublin*, *I* met Captain *Hulett*, he invited me to take ſhare of a pint of Wine; *I* went with him to a Tavern; when we were in the Tavern he called for a pint of wine, and I called for another; before we had drank out the laſt pint of wine, ſaid *I* to Captain *Hulett*, I pray reſolve me this one queſtion, it is reported that you took up the Kings head, and ſaid, behold the head of a Traytour; Sir, ſaid he, it was a queſtion *I* never reſolved any man, though often demanded, yet ſaith he, whoſoever ſaid it then, it matters not, *I* ſay it now, it was the head of a Traytour.

*H.* I confeſs we di d meet together, as you ſay, but I muſt and do deny the words.

Lieutenant Collonel *Nelſon* ſworn.

*Nelſon,* My Lords and Gentlemen of the Jury, upon a diſcourſe with Col. *Axtel* as I related once this day, about ſix years ſince in many other diſcourſes we fell to diſcourſe about the death of

the late King, I ſuppoſing he had been acquainted with that affair, I deſired him to tell me thoſe two perſons diſguiſed upon the ſcaffold; he told me I knew the perſons as well as himſelf, ſaith he, they have been upon ſervice with you many a time: pray *Sir*, ſaid I, let me know their names; truly ſaith he, we would not imploy perſons of low ſpirits that we did not know, and therefore we pitcht upon two ſtout fellows; who were thoſe ſaid I? *It* was *Walker* and *Hulet*, they were both Serjeants in *Kent* when you were there, and ſtout men: Who gave the blow ſaid I? Saith he, poor *Walker*, & *Hulet* took up the head; pray ſaid I, what reward had they? *I* am not certain whether he ſaid thirty pounds apiece, or thirty pounds between them.

*Hulet*, Pray let Mr. *Axtel* ſpeak to this, he is hard by.

*Colonel* Tomlinſon *ſworn.*

*Councel*, Pray tell my Lords your knowledg in this buſineſſe.

*Tomlinſon*, My Lords and Gentlemen of this Jury, I cannot punctually remember what their habits were, but they had cloſe garments to their bodies, they had hair on their faces, one was gray to the beſt of my remembrance, the other was flaxen colour.

*Councel*, Can you tell who ſtruck the blow?

*Tom.* My Lord, I cannot remember, but I think he with the gray hair on his face did it.

*Nelſon*, My Lord, *I* will not poſitively ſay it, but it came lately to my mind that I did hear in *Ireland* by Col. *Pretty* that *Hulet* did it; my Lord, this Col. *Pretty* is alive in *Ireland*.

*Ben. Francis ſworn.*

*Francis*, My Lords and Gentlemen of the Jury, as to the Priſoner at the bar, he was very active in that horrid act, there was two of them had both clothes alike, their frocks were cloſe to their bodies (as I remember) they were rather in Butchers habits of wollen, one had a black hat on his head cockt up, and a black beard, and the other had a gray griſled periwig hung down very low, I affirm, that

He that cut off the Kings head was he in the gray periwig, and I beleeve this was about that mans ſtature (*pointing to Mr. Hulet*) and his beard was of the ſame colour, if he had any. I was coming from *Weſtminſter*, the ſcaffold was encompaſſed within, with a great guard of Souldiers of *Redcoats*, I think commanded by *Biſcoe*.

*Hulet*, Was you upon the Scaffold?

*Francis*, No Sir, there was none of my conſtitution upon the Scaffold.

*Councel*, Fuller evidence I think cannot be expected, you have heard all the Witneſſes, what can you ſay for your ſelf?

*Hulet*, My Lord, here is ſeveral witneſſes examined concerning the buſineſs, and for my part I do not underſtand the Law: I muſt leave it to the Court. I can upon the other accompt prove where I was at that very time, I can in the next place my Lord, ſince *I* came into *London*, for I did not hear it before, I can tell you, who was the perſon that did that act, I can bring fourty and fourty witneſſes that will prove who they were that did it, as I have been informed by ſeveral Witneſſes, that they know who was the perſon that did it: upon the other accompt I can prove where I was that day, but I did not know when I was arraigned, what was laid to my charge: Here was ſome examinations taken before my Lord Mayor concerning the perſon or perſons that did that act: (here he offered a paper, a copy of the ſaid examinations, ſubſcribed *Mary Brandon* and divers others.)

Mr. *Secretary Mor*. Was you not examined in the Tower?

*Hulet*, Yes Sir.

Mr. Secr. *Morice*, Did not we tell you, that you were charged with cutting off the head of the King?

*Hulet*, Yes Sir you did tell me ſo.

L. Ch. *B*. Then you had time to provide your witneſſes.

*H*. I was a cloſe priſoner.

L. C. *B*. Where were you on the day of execution?

*H*. I was priſoner then at *Whitehall*.

L. Ch. *B*. For what?

*H*. Upon this accompt we were taken up, about ſeven or nine of us were taken up, we were all Serjeants, three of Col. *Hackers*, the reſt of *Prides* and *Fairfaxes*, and about ten of clock at night were diſcharged.

L. Ch. *Baron*

L. Ch. B. For vvhat vvere you impriſoned ?

*H.* For refuſing to be upon the Scaffold.

*Burden.* It vvas a Comnion ſpeech among the Souldiers that *Hulet* cut off the Kings head.

L. C. B. Hovv long before did you ſee *Hulet* upon the guard.

*Burden.* The day before, but not that day, nor the day after.

L.C.B. *W. Hulet*, the evidence againſt you is 2 fold, one concerning the cutting off the Kings head, the other that you vvere in a frock, If it be proved that you did not cut off the Kings head, yet if you vvere in a frock in that place it vvill not excuſe you, if you have any thing to ſay I vvill be glad to hear it.

*Hulet.* I deſire the perſons may be examined upon oath, priſoners and others, who was the perſon that did it, I mean *Hacker*, *Huncks*, and *Phayer*.

L. ch. B. You that are the priſoner, for that which concerns *Hacker* and *Phayer*, you know what conditions they are in, one already tryed for his life, the other a priſoner in the Tower; and *Hacker* ſaith himſelf, he doth not know the perſon at all; you that are priſoner at the bar, the Court conceives you have had time to get your witneſſes here, you were informed of the buſineſſe before you came here, yet notwithſtanding, it is conceived there are ſome here that can ſay ſomething tending to the information of the Jury, but they are not to be admitted upon Oath againſt the King.

### *Shrieffs Officer examined.*

*Shrieffs Officer*, My Lord, all that *I* can ſay in this buſineſs is this, one of our fellows that belongs to our Maſter the Shrieff, *John Rooten* by name, he and I were talking about this very ſtory, and he did acquaint me with this. That he was in *Roſemary-Lane* a little after the Execution of the King, drinking with the Hangman, that he did urge him whether he did this fact. God forgive me, ſaith the Hangman, *I* did it, and I had 40 half crowns for my pains.

### *Abraham Smith examined.*

*Smith*, My Lord, aſſoon as that fatall blow was given, I was walking about *VVhite-Hall*, down came a file of Muſketeers, the

firſt vvord they ſaid vvas this, vvhere be the Bargemen. Anſvver vvas made, here are none, away they directed the Hangman into my boat, going into the boat he gave one of the *S*ouldiers a halfe crown, ſaith the *S*ouldiers, waterman away with him, be gone quickly, but I fearing this Hangman had cut off the Kings head, *I* trembled that he ſhould come into my boat, but dared not to examine him on ſhore for fear of the *S*ouldiers, ſo out *I* lanched, and having got a litle vvay in the vvater, ſaid I who the Devil have I got in my boat? ſayes my fellow, ſayes he why? I directed my ſpeech to him ſaying, are you the Hangman that hath cut off the Kings head? no as *I* am a ſinner to God ſaith he, not *I*, he ſhook every joynt of him, I knew not what to do, I rowed away a litle further and fell to a new examination of him, when *I* had got him a litle further: tell me true ſaid I, are you the Hangman that hath cut off the Kings head? I cannot carry you ſaid I, no ſaith he, I was fetcht with a troop of horſe, and *I* was kept a cloſe priſoner at *White-Hall*, and truly *I* did not do it, *I* was kept a cloſe priſoner all the while, but they had my inſtrumens. I ſaid I would ſink the boat if he would not tell me true, but he denyed it with ſeverall proteſtations.

*William Cox* examined.

*Cox.* When my Lord *Capell*, Duke *Hamilton*, and the Earl of *Holland* were beheaded in the Palace yard in *Weſtminſter*, My Lord *Capell* asked the Common Hangman, ſaid he did you cut off my maſters head? yes ſaith he, where is the inſtrument that did it? He then brought the ax: is this the ſame ax are you ſure, ſaid my Lord? Yes my Lord ſaith the Hangman, *I* am very ſure it is the ſame: my Lord *Capell* took the ax and kiſſed it, and gave him five pieces of Gold, *I* heard him ſay, ſirrah wert thou not affraid? ſaith the Hangman, they made me cut it off, and *I* had thirty pound for my pains.

*Richard Abell* examined.

*Abell.* My Lord, in the houſe of one Mr. *Bramſton I* did hear Gregory himſelf confeſs that he cut off the Kings head.

L. Ch. B.

*L. ch. B.* You that are the priſoner at the bar; the Court is willing to give all full ſcope as far as may be to examine the truth of the fact; as they would not condemn the innocent, ſo they would not acquit the guilty, do you deſire further time to examine the truth of it, before it be put upon the Jury?

H. *I* do confeſſe I do not underſtand the laws, *I* deſire *I* may have a little further time: I deſire the Jury may be vvithdravvn, *I* deſire a fourtnights time, but ſubmit to the Court.

## *A Stranger Examined.*

*Stranger*, My Lord, *I* was with my Maſter with *Brandon* the Hangman, and my Maſter asked *Brandon*, whether he cut off the Kings head or no? He confeſſed in my preſence that he vvas the man that did cut off the kings head.

*Lord chief Baron*, You that are the Priſoner at the bar, the Court vvas vvilling to give you as much time as they could by Lavv: The Jury hath been charged, and evidence given, all thoſe Witneſſes have been examined that vve could hear of novv, for your advantage, *I* vvill ſay ſomething to you. *It* vvas here ſaid, and given in Evidence, that *Axtel* did ſend a boat to fetch the common Hangman, if vve knevv more that might tend to your advantage it ſhould be repeated. You Gentlemen of the Jury, mark it? There is firſt *Gittens*, he ſvvears that he vvas in the ſame Regiment that you were in twelve or thirteen years together, he ſaith that he and others were called together upon their oaths, and you amongſt the reſt, and there was an oath of ſecrecy, asking them if they would do ſuch an act, they all refuſed to do it, ſo did you: but he ſaid, the day of execution of the King, this *Gittens* got among them, and one Captain *VVeb* kept the door, and he ſaw you fall before the King, and ask the King forgiveneſſe, he ſaid he heard your voice, and ſo knew you: and that the day after Captain *Atkens* ſaid, you ſhall ſee *Hulet* ſhortly come to preferment, & he ſaith he did not ſee you in the Regiment that day, and that *Hewſon* and all the Regiment uſed to call you *Father Graybeard*. *Stammers* he ſaith, that he was Capt. Lieutenant to Col. *Hewſons* Troop, and you comming to *Lutterels* town, you asked him ſeveral particulars, whether he had been in the Kings Army, walking up and

down

down you ſaid, you were the man beheaded King *Charles*, and for that you had one hundred pounds; this he ſwears poſitively. *Samſon Toogood* he ſwears, he ſaw you come to Col. *Hewſons* in 1650. you talked to him very familiarly; when you were gone he *asked* who you were, he told him you were a Captain Lieutenant of horſe, and he ſaid, that you were a very mettled fellow, and did the Kings buſineſs upon the Scaffold: that afterwards, Colonel *Hewſons* Regiment being diſcharged, you came to be of *Pretty*'s Regiment, and that he told this Gentleman, that he was aſſured by Colonel *Hewſon*, that it was you, that either cut off the Kings head, or took it up and ſaid, *Behold the head of a Traytour*. He ſaith afterwards, that in 1654. in *Carloe*, he asked you the ſame queſtion, and you demanded of him who told him? He anſwered he was told by ſeveral perſons, namely *Hewſon* and *Pretty*. You ſaid, what I did *I* will not be aſhamed of, and if it were to do I would do it again. He ſayes again at another time, that you were one of the two perſons who were then upon the Scaffold, and that there were ſtaples to enforce the King to ſubmit, if he ſtrugled. *I had that about me which would have done the buſineſs*. And he ſayes, in *November* laſt you came to a meeting upon a ſummons of Colonel *Jones*, and then did avouch *Lamberts* quarrel, he ſaid you were too forward heretofore: you ſaid, If it be the buſineſs of the Kings head, *I* will never deny it, call me to an account when you will. He heard many call you *Grandſire Graybeard*. Then there is another witneſs, *I* think his name is *Davies*, he was in diſcourſe with you, drinking two pints of wine; It is reported (ſayes he) you took up the Kings head, and ſaid, *Behold the head of a Traytour*: and he deſired you to reſolve him vvhether it vvas ſo or no: you ſaid again, it had been demanded often: but you never reſolved any man: you ſaid, vvhoſoever ſaid it then, *I* ſay novv, *It was the head of a Traytour*. *Nelſon* he ſvvears, that about ſix years ſince he vvas in diſcourſe vvith *Axtell* about it, and *Axtell* told him they vvere a couple of ſtout men to your knovvledge (ſpeaking to *Nelſon*) I vvas one to do in that affair: vve made choice of tvvo, *Walker*, and *Hulet*, vvho gave the blovv? *Walker*, but *Hulet* took up the head. Colonel *Tomlinſon* he ſaies, that there vvere tvvo on the Scaffold, one that had a gray beard, and the other ſomevvhat flaxen. *Nelſon* alſo heard by Colonel *Pretty* that you

did

did it: and then *Ben. Francis* he ſayes, they had both Frocks alike, one a black beard, one a gray griſſled periwig, and believes he was about your ſtature. This is the ſubſtance of what the witneſſes have ſaid againſt you; Gentlemen you hear what has been proved on behalf of the Priſoner, that is, if you believe the witneſſes that are not upon oath, that *Branden* confeſſed it, and denyed he did it, ſeverall Witneſſes that ſay *Brandon* confeſſed he did it, and that he told them of a ſum of money that was given him. Gentlemen of the Jury, you ſee the whole point in this caſe, the indictment is for compaſſing and imagining the death of his late Majeſty; the Evidence goes two waies, part of the witneſſes one way, part another way, if you believe either of them, then you ought to find that the defendent is guilty: if either he was in the frock, though he was not the man that did it, or if you find he did it, it is a clear teſtimony of his *Imagining* and Compaſſing the death of the King. Now it reſts upon you to conſider the Evidence that is given for the Common Hangman, that he ſhould be the man that did it: that the Priſoner at the bar did not cut off the head; on the other ſide, if you do believe he was one of the two in the Frocks, upon the relations of theſe perſons, *Pretty*, *Hewſon* and *Axtel*, if you believe it upon theſe relations, and after his own confeſſion, that if he was to do it again he would do it; then upon this evidence that is given you, he is to be found guilty, though he did not cut off the Kings head. You have heard the Evidence on all ſides, it reſts upon you, pray go together and conſider of your Verdict. I have forgotten one thing, God forbid! ſhould omit any thing that may be as well for advantage as againſt the Priſoner at the bar: if you take it ſingly, if you have nothing of other proof, what another man ſaies of me doth not charge me, unleſs there be ſomething of my own, what you have heard from himſelf, and what you have heard by relations from others, that is to be left to you. It is my duty to tell you, that which is ſaid by another of me, that alone is not a pregnant evidence; you muſt remember withall, what is ſworn poſitively, what he ſaid himſelf: this being ſaid, I muſt leave it to you. Pray go together.

*After*

*After a more than ordinary time of conſultation, the Jury returned to their places.*

*Clerk*, Are you agreed of your Verdict?
*Jury*, Yes.
*Clerk*, Who ſhall ſay for you?
*Jury*, Our Foreman.
*Clerk*, *Will: Hulet* alias *Howlet*, hold up thy hand. Gentlemen look upon the Priſoner at the bar, how ſay you, is he guilty of the high Treaſon, &c?
*Foreman*, Guilty.
*Clerk*, Look to him Keeper. What Goods and Chattells?
*Jury* None to our knowledge.

*And then the Court adjourned till to morrow morning ſeven a clock in this place.*

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16 h. *October*, 1660. Seſſions-Houſe *Old-Baily*.

*Proclamation of the Court.*

*Clerk of the Crown.* Set *Iſaac Penington*, *Hen. Marten*, *Gilb. Millington*, *Rob. Tichbourn*, *Owen Roe*, *Rob. Lilburn*, *Hen. Smith*. *Edm. Harvey*, *John Downs*, *Vincent* Potter, *Aug. Garland*, *Simon Meyne*, *James Temple*, *Pet. Temple*, and *Tho. Wayte*, ( in all fifteen ) to the bar, which was accordinly done.

*Clerk of the Crown*, You the Priſoners at the bar, thoſe of the Jury that were laſt called are to paſs, &c. if you or any of you will, challenge all or any of them when they come to the bar before they beſworn.

*Charles* Pitfield, *Chriſtopher Abdy*, *Richard Cheyney*, *George Tirrel*, *Daniel Cole*, Hall, *Richard Abell*, *Edmund Starnel*, *Edmund* Pitt,

Pitt, *Will. Whitcomb*, *Francis Dorrington*, and *Thomas Nicholl*, called and ſworn of the Jury.

*Clerk of the Crown.* *Iſaac* Penington, *Henry Martin*, *&c.* Hold up your hands. Gentlemen that are ſworn look upon the Priſoners at the Bar. You ſhall underſtand that the ſaid *Iſaac Penington*, &c. together with, &c. (*here the Indictment was read*) Unto which they and every of them have ſeverally pleaded Not guilty, and for their Tryal have put themſelves upon God and the Country, which Countrey you are: now your Charge is to enquire, &c.

*Kings Councel.* May it pleaſe your Lordſhips aud you Gentlemen of the Jury, the Priſoners at the Bar ſtand indicted of high Treaſon, for compaſſing and imagining the death of the late King *Charles* the Firſt of Glorious memory. The *Indictment* ſets forth ſeveral *Overt-acts*, by which that imagination doth appear, the Treaſon it ſelf is the compaſſing. Our *Evidence* will go on thus: We ſhall prove againſt them all, that they did ſit (in that which they called the High Court of Juſtice) upon the King, whilſt the King was a Priſoner at the Bar, moſt of them did ſentence him, all but *Harvey* and *Penington* did ſign that bloudy Warrant for his execution, and that one of the Priſoners at the Bar was in before the High Court of Juſtice conſulting of bringing it about. When we have proved this I think it is enough. Pray call the witneſſes.

*Harvey.* My Lords, according to my duty I ſhall ſave this honourable Court all their trouble. *I* do humbly acknowledge, that *I* was, and did ſit, in that Court, but I did not ſign and ſeal the Warrant.

*L. C. Baron.* It is very true Mr. *Harvey.*

*Harvey.* I hope your *Lord*ſhips and this honourable Bench will give me leave (in that time which you ſhall appoint) to ſhew you my reaſons that I did it not of malice, and it was an errour not of Will, but of Judgement; what I have to ſay will be (though not for the annihilating) yet for the extenuation of my crimes.

*Lord Chief Baron.* Say now what you will, only conſider with your ſelf, whether you have not already ſpoken as much as you can for the Extenuation of it, ſay what you can further.

*Harvy.* Let me ſpeak a word.

*L. ch. Baron.* Go on Sir.

*Harvey.* My Lord, I do humbly conceive, if I had conceived that I had then done any thing of Treaſon, I would not for all the world have been there. I was preſent when his Majeſtie did not own the Court, deſiring that both his Houſes might meet, that he might have a Conference with them for ſettling of the peace: My Lord, heartily and unfeignedly I did endeavour that that Advice might be embraced, and that no ſentence might be pronounced. I was one of thoſe (with ſome others) that did ſo far promote it, that that which they called the High Court of Juſtice, did withdraw to conſider of it, but the major part of it did diſſent. But my Lord, *I* was ſo unhappy as to return to the Court, though with reluctancy; I went with a reſolution not to go more to them, nor never did; I was ſummoned to come to the Court: I did declare I abhorred the thing, that my ſoul had reluctancy againſt it, and I was greatly greived and troubled at it, and *I* did refuſe any more to come, or to conſult about any thing that followed in order to his Majeſties death, and to ſign and to ſeal. And that I may make it appear to your Lordſhips, I pray *I* may have a witneſſe or two examined.

*Lord Chief Baron.* Name them. Did he ſit upon the day of ſentence?

*Councel.* Yes he did, he followed it.

Mr. *Edw. Corbet* examined.

Mr. *Corbet.* My Lord, the atteſtation which I this day make ſolemnly in the holy fear of Almighty God, and in awful reverence of this great Tribunal, hath only this great ſcope, that Collonel *Harvey* the Priſoner at the Bar, upon that day of ſigning the Warrant for that horrid execution of his moſt Excellent Majeſty, not in title only, but in reality, he finding me as

I was passing to the duty of my place in the Assembly of Divines then sitting, he seized on me, and desired privacy of time and place, that he might disburthen his soul and spirit unto me, it was then about nine a clock in the forenoon to the best of my remembrance.

*L. C. B*, What day *I* beseech you?

*Corbet.* To the best of my remembrance upon the Monday; Sir, sayes he, I desire to make known unto you the deep horrour that sits upon my spirit, the sadness and grief above all expressions that my present case has cast me into; *I* have endeavoured Sir, sayes he, in the sight of God all that possibly *I* could, to divert them from the Sentence, I could not prevail. Sir, sayes he, this morning I have been sollicited with very much earnestness, that *I* would go and sign, and seal, and order, that wicked Execution, which my soul abhors, and Sir, that *I* might be removed and withdrawn from all temptations and sollicitations of such a wicked fact, I beseech you spare me your time this day, which *I* did, in the presence of another Divine, till four a clock that afternoon, and then *I* parted, and went to *Westminster*, to sign and assist that which I did apprehend my bounden duty, the vindication of the Assembly of Divines, wherein we did testifie, that it was far from our thoughts to advise the Parliament to any such unheard of unnatural act.

*Councel.* We do admit that after he sat and sentence past, that he did not sign.

*Harvey.* Be pleased to call one Mr. *Tho. Langham*, he hath heard me often declare against that act.

Mr. *Tho.* L*angham* examined.

*Lord Chief Baron.* What do you say Mr. *Langham* as to this businesse?

L*angham.* Sir, about the time that his Majesty was executed in 1648. I was then servant to Alderman S*leigh*, who was formerly partner with this Colloner, and he frequenty came to Alderman

*Sleigh's* every night, And the Alderman having ſome buſineſs with him would ask him what newes there was at the high Court of Juſtice: he uſually told him the paſſages upon any day, the Alderman asked him if ſo be he thought his Majeſty might eſcape, he told him this, that he would do what lay in his power that he might, that he might not come to have ſentence paſt, upon *Saturday* being alſo there, he told him this, that he had done what lay in his power to hinder the ſentence, but could not attain his deſign, but he was reſolved he would never ſign, nor ſeal to his Majeſties death, for it was utterly againſt his Judgment.

*Harvey.* There is another (my *Lord*) and but one more that is *George Langham.*

*L.* Ch. *Baron.* To what purpoſe? This is believed.

*Harvey.* I ſhall only crave and ſupplicate this favour of this honourable Bench, that this honourable Bench will be pleaſed on my behalfe (ſince *I* have endeavoured it two moneths before) to preſent my humble Petition to his ſacred Majeſty, and to interceed for mercy and favour on my behalf, my ſelf, my wife, and thirteen Children ſhall humbly pray.

The court received the ſaid petition, and promiſed to preſent it to his Majeſty.

*Millington.* I do not know whether it will be ſeaſonable for me to interpoſe now I would ſpake a little.

L. Ch. *Baron.* Is he next in order.

*Clerk.* No my Lord, *Penington* is next.

*Penington.* I am unwilling to be troubleſom to the Court. This I ſhall take the boldneſs to ſay; (which ſhall be nothing but truth) *I* never had a hand in plotting, contriving, malicious practices againſt his Majeſty, demonſtrated by my utterly refuſing to ſign the warrant for his Execution, though often ſolicited thereunto, I cannot deny but *I* ſat amongſt them that day of the ſentence, but I cannot remember *I* was there when the ſentence paſſed; My ſitting amongſt them was out of ignorance, I knew not what

what I did, therefore I hope you will believe there was nothing of malice in any thing I did, *I* was miſled to it.

L. Ch. *Baron.* I cannot hear you ( he not ſpeaking aloud )

*Penington.* *It* was ignorance, not malice that did lead me, if I had known what I have done, I would not have done it, I humbly pray that there may be a favourable conſtruction made of it I humbly leave it with you. I did my duty to pray for the King, but had no malice to act willingly againſt him.

C. *Henry Marten.*

*Councell* He did both ſign and ſeal the precept, for ſummoning the Court, and the Warrant for Execution, ſat almoſt every day, and particularly the day of ſentence.

*Marten.* My Lord I do not decline a confeſſion ſo as to the matter of fact, the malice ſet aſide, maliciouſly, murderouſly, and Trayterouſly.

*Councell.* If you have any thing to ſay to that, we will prove it.

L. Ch. *Baron.* That I may inform you in it, there is malice implied by law, malice in the act it ſelf, that which you call malice, that you had no particular intention or deſign againſt the Kings perſon, but in relation to the Government, that will not be to this preſent buſineſs ; if it ſhould extenuate any thing that would be between God and your own ſoul, as to that which is alledged in the indictment. *Maliciouſly*, *Murderouſly*, and *Trayterouſly*, they are the conſequences of law ; if a man meet another in the Street and run him through, in this caſe the law implies Malice, though but to an ordinary watchman, there is Malice by the law in the fact, if there was no ſuch expreſſed perſonall malice as you conceive, yet the fact done implies malice in law.

*Mr. Solicitor Generall*, My Lord he does think a man may ſit upon the death of the King, ſentence him to death, ſign a warrant for his Execution meekly, innocently, charitably, and honeſtly.

*Martin*

*Marten.* I ſhall not preſume to compare my knowledge in the Law with that of that learned Gentleman, but according to that poor underſtanding of the Law of *England*, that I was capable of, there is no fact that he can name that is a crime in it ſelf, but as it is circumſtantiated. Of killing a watchman, as your Lordſhip inſtanced, a watchman may be killed in not doing his office, and yet no murder.

*Lord Chief Baron.* I inſtanced that of a watchman, to ſhew there may be a malice by Law, though not expreſſed, though a man kill a watchman, intending to kill another man, in that caſe it is malice in Law againſt him; ſo in this caſe, if you went to kill the King when he was not doing his office, becauſe he was in priſon, and you hindred him from it, the Law implies malice in this; it is true, all actions are circumſtantiated, but the killing of the King is Treaſon of all Treaſons.

*Juſtice Foſtice.* If a watchman be killed it is murder, it is in contempt of Magiſtracy, of the powers above; the Law ſayes, that contempt adds to the malice.

*Councel.* We ſhall prove againſt the priſoner at the Bar (becauſe he would wipe off malice) he did this very merrily, and was in great ſport at the time of the ſigning the Warrant for the Kings execution.

*Marten.* That does not imply malice.

*Ewer* ſworn.

*Councel.* Come Sir, you are here upon your Oath, ſpeak to my Lords and the Jury, you know the priſoner at the Bar very well, you have ſometimes ſerved him, were you preſent in the painted Chamber 29. *January.* 1648. at the ſigning the Warrant the Parchment againſt the King?

*Ewer.*

*Ewer*, The day; *I* do not remember, but *I* was in that chamber to atteud a Gentleman there, *I* followed that Gentleman ( looking at Mr. *Marten* ) *I* followed that Gentleman into that chamber.

L. ch. *B.* After what Gentleman?

*Ewer*, Mr. *Marten* my Lord, *I* was preſsing to come near, but I was put off by an Officer or Souldier there, who told me *I* ſhould not be there; *I* told him *I* was Ordered to be by that Gentleman. My Lord *I* did ſee a Pen in Mr. *Cromwells* hand, and he marked Mr. *Marten* in the face with it, and Mr. *Marten* did the like to him: but I did not ſee any one ſet his hand, though *I* did ſee a parchment there with a great many ſeales to it.

Sr. *Purback Temple* ſworn.

*Councel*, What do you know of that Gentleman in his carriage of this buſineſſe.

Sr. *Purback Temple*, My Lords, *I* being preſent in Town when that horrid Murder was contrived againſt the late King, there came ſome perſons of honour, Servants to the late King, to my Fathers Houſe, Sir *Edward Partridge*, to engage me to joyn with them to attempt the Kings eſcape. *In* order whereto they told me, nothing would tend ſo much to his Majeſties ſervice, as, to endeavour to diſcover ſome part of their Counſells, for that it was reſolved by *Cromwell* to have the King tryed at the High Court of Juſtice as they called it, the next day, and deſired me ( if poſſible ) to be there to diſcover their counſells, whereby the King might have notice and thoſe that were to attempt his eſcape. In order whereunto, the next day by giving money to the Officer of the painted chamber *I* got in by day light, in the lobby to the Lords houſe, I eſpyed a hole in the wall under the hanging, where I placed my ſelf till the council came, where they were contriving the manner of try-

rying the King when he ſhould come before them: and after the manner of praying and private conſults amongſt themſelves: When their prayer was over, there came news that the King was landing at Sr. *Robert Cottons* Stairs, at which *Cromwell* run to a window, looking on the King as he came up the Garden, he turned as white as the Wall, returning to the board he ſpeaks to *Bradſhaw* and *Sr. Henry Mildmay*, how they and Sir *William Brereton* had concluded on ſuch a buſineſſe, then turning to the board, ſaid thus. *My Maſters, he is come, he is come, and now we are doing that great work that the whole nation will be full of: Therefore I deſire you to let us reſolve here what anſwere we ſhall give the King when he comes before us, for the firſt Queſtion that he will ask us will be, by what authority and Commiſſion we do try him?* to which none anſwered preſently. Then after a little ſpace *Henry Marten* the Priſoner at the Barr roſe up, and ſaid, *In the name of the Commons and Parliament aſſembled, and all the good people of England*, which none contradicted, ſo all roſe up and then I ſaw every Officer that waited in the room ſent out by *Cromwel* to call away my Lord ſuch a one (whoſe name I have forgot) who was in the Court of Wards chamber, that he ſhould ſend away the inſtrument, which came not and ſo they adjourned themſelves to *Weſtminſter-Hall*, going into the Court of Wards themſelves as they went thither. When they came to the Court in *Weſtminſter-Hall*, I heard the King aske them the very Queſtion that *Cromwell* had ſaid to them.

Mr. *Solicitor*, Gent. The Priſoner at the Bar confeſſes his hand to the warrant for executing the King, you ſee by his ſervant how merry he was at the ſport. You ſee by this witneſs how ſerious he was at it, and gave the foundation of that advice, upon which they all proceeded, and now he ſaies he did it not Traiterouſly: *I* humbly conceive he means it was Juſtifiable.

Sr. P. *Temple*. At another time *I* was in town on a *Friday*, and wanting horſes *I* went to *Smithfield* where *I* ſaw the horſes

of State of his late Majesty to be sold in the Common Market, at which I called to a Rider, said I, what makes these Horses here? says he I am to sell them, why said I, there's the Kings Brand upon them, *C. R.* and he shew'd them me, said I, will you sell these Horses? What price? he asked me three or four score pound a piece, said I, who warrants the sale of these horses, says he, Mr. *Marten* and Sir *Wil. Brereton*, afterwards I heard the horses wete taken into the *Mews* by the Prisoner at the Bar, and Sir *William Brereton*.

Councel. *Was this before the Trial?*

Sir *P. Temple*. It was in 1642, or 1643.

Councel. *That's nothing to this busines.*

*Marten*. My Lord, the Commission went in the name of the Commons assembled in Parliament and the good people of *England*, and what a matter is it for one of the Commissioners to say, let it be acted by the *good people of England?*

*Mr. Soll. Gen.* You know all *good people* did abhor it, I am sorry to see so little repentance.

*Mar.* My Lord, I hope that which is urged by the learned Councel will not have that Impression upon the Court and Jury that it seems to have, that I am so obstinate in a thing so apparently ill; My Lord, if it were possible for that blood to be in the body again, and every drop that was shed in the late wars, I could wish with all my heart: but my Lord, I hope it is lawful to offer in my own defence, that which when I did it, I thought I might do: my Lord, there was the House of Commons as I understood it: perhaps your Lordships think it was not a House of Commons, but it was then the Supreme Authority of *England*; It was so reputed both at home and abroad: My Lord, I suppose he that gives obedience to the authority in being *de facto*, whether *de jure* or no, I think he is of a peaceable disposition, and far from a Traytor. My Lord, I think there was a Statute made in *Henry* the seventh his time, whereby it was provided, that whosoever was in Arms for the King *de facto*, He should be indempnified though that King *de facto*, was not so *de jure*; and if the Supreme Officers *de facto* can justifie a war (the most pernicious remedy that was ever adjudged by mankind, be the Cause what it will) I presume the Supreme Authority of *England* may justifie a Judicature, though it be but an Authority *de facto*; My Lord, if it be said that it is but a third Estate, and a small parcel of that, My Lord, It was all that

was extant. I have heard Lawyers ſay, that if there be Commons appurtenant to a tenement, and that tenement be all burnt down except a ſmall ſtick, the Commons belong to that one ſmall piece, as it did to the tenement when all ſtanding. My Lord, I ſhall humbly offer to conſideration, whether the King were the King indeed, ſuch a one whoſe peace, Crowns and Dignities were concerned in publick matters: My Lord, he was not in execution of his offices, he was a priſoner. My Lord, I will not deſer you long, neither would I be offenſive, I had then and I have now a peaceable inclination, a reſolution to ſubmit to the Government that God hath ſet over me. I think his Majeſty that now is, is King upon the beſt title under Heaven, for he was called in by the Repreſentative body of *England*. I ſhall during my life long or ſhort, pay obedience to him: Beſides, my Lord I do owe my life to him, though I am not acquitted for this. I do confeſs, I did adhere to the Parliaments Army heartily, my life is at his mercy; if his Grace be pleaſed to grant it, I have a double obligation to him.

*Mr. Soll.* My Lord, this Gentleman the priſoner at the bar, hath entred into a diſcourſe, that I am affraid he muſt have an anſwer in Parliament for it. He hath owned the King, but thinks his beſt title is the acknowledgement of the people and he that hath that, let him be who he will, hath the beſt title: we have done with our evidence,

*Marten.* I have one word more, my Lord, I humbly deſire that the Jury would take notice, that though I am accuſed in the name of the King, that if I be acquitted the King is not Caſt: it doth not concern the King that the priſoner be Condemned, it concerns him that the priſoner be tryed; it is as much to his Intereſt, Crown, and Dignity, that the Innocent be acquitted, as that the nocent be condemned.

*Mr. Soll. Gen.* My Lord, this puts us now upon the reputation of our evidence, and you may ſee how neceſſary it is to diſtinguiſh between Confidence and Ionocence, for this very perſon that deſires you to have a care how you condemn the innocent, he doth ſeem to intimate to you, that he is an innocent perſon at the bar; and yet confeſſes he did ſit upon the King, did ſentence him to death, that he ſigned the Warrant for the execution, and yet here ſtands that perſon that deſires you to have a care of condemning innocence: what is this at the bottome of it, but that my fact is ſuch as I dare not call it in-

innocence, but would have you to believe it ſuch. Gentlemen of the Jury, was it your intention the King ſhould be ſo tryed as this priſoner moved? it will concern you to declare that the people of *England* do abhor his facts and principles, every fact the priſoner hath confeſſed himſelf, the ſitting in that Court which was treaſon; his ſentencing was treaſon, ſigning the Warrant for Execution was the higheſt of treaſons: Gentlemen, all that he hath to ſay for himſelf is, there was an authority of his own making, whereby he becomes innocent, But we hope out of his own mouth you will find him guilty.

*Gilbert Millington.* I deſire you to hear me, I come not hither to diſpute, but to acknowledge, I will not trouble you will long diſcourſes: My Lord, it is not fit for wiſe men to hear them, I am not able to expreſs them, I will not juſtifie my ſelf, I will acknowledge my ſelf guilty. My Lord, the reaſon why I ſaid the laſt day Not guilty, was, in reſpect of being upon the Scaffold, and murthering the King, and thoſe things; but I will wave all things if your Lordſhip will give me leave, and I will go unto the loweſt ſtrain that poſſible can be, I will confeſs my ſelf guilty every way, I was awed by the preſent power then in being. This I leave with you, and lay my ſelf at your feet, and have no more at all to ſay, but a few words in a petition, which I deſire you will pleaſe to accept, and ſo I conclude.

Councel. *We do accept this honeſt and humble Confeſſion,—and ſhall give no evidence againſt him to aggravate the matter.*

*L. Ch. B.* Your Petition is accepted, and ſhall be read.

*Robert Titchburne.* My Lord, When I firſt pleaded to the Indictment, it was, *not guilty in manner and form as I ſtood Indicted:* My Lord, it was not then in my heart, either to deny or Juſtifie any title of the matter of Fact; my Lord, the matter that I was led into by ignorance, my Conſcience leads me to acknowledge: But my Lord, if I ſhould have ſaid Guilty in manner and form as I ſtood indicted, I was feareful I ſhould have charged my own Conſcience, as then knowingly and maliciouſly to act it. My Lord, it was my unhappineſs to be called to *ſo ſad a work*, when I had ſo few years over my head: A perſon neither bred up in the Laws, nor in Parliaments where Laws are made; I can ſay with a clear Conſcience, I had no

more *Enmity* in my heart to his Majesty, then I had to my wife that lay in my bosom. My Lord, I shall deny nothing, after I was summoned, I think truly I was at most of the Meetings, and I do not say this that I did not intend to say it before, but preserving that *Salvo* to my own Conscience, that I did not maliciously and knowingly do it; I think I am bound in Conscience to own it; as I do not deny but I was there, so truly I do believe I did sign the Instrument: and had I known that then which I doe now (I do not mean, my Lord, my afflictions and sufferings, it is not my sufferings make me atknowledge) I would have chosen a red hot Oven to have gone into as soon as that meeting; I bless God, I do this neither out of fear, nor hopes of favour, though the penalty that may attend this acknowledgement may be grievous: My Lord, I do acknowledge the matter of Fact, and do solemnly profess, I was led into it for want of years, I do not justifie either the act or the person; I was so unhappy then as to be ignorant, and I hope shall not now (since I have more light) Justifie that which I was ignorant of, I am sure my heart was without malice; if I had been onely asked in matter of Fact at first, I should have said the same, I have seen a little; The Great God before whom we all stand, hath shewn his tender mercy to persons upon repentance, *Paul* tells us, though a Blasphemer, he found mercy: My Lord, Mercy I have found, and I do not doubt, but mercy I shall find; My Lord I came in upon the Proclamation, and now I am here, I have in truth given your Lordship a clear and full accompt. Whatever the Law shall pronounce, because I was ignorant, yet I hope there will be room found for that mercy and grace, that I think was intended by the Proclamation, and I hope by the Parliament of *England*; I shall say no more, but in pleading of that, humbly begg that your Lordships will be instrumental to the King and Parliament on my behalf.

Council. *We shall give no evidence against the Prisoner, he sayes he did it ignorantly, and I hope and do believe he is penitent, and as far as the Parliament thinks fit to shew mercy, I shall be very glad.*

*Owen Roe.* I have not much to say, I never had any ability, therefore my Lord, it was never my intent upon my plea, as was said before, to deny any thing I have done; for I was clearly convinced that I ought to confess it before, and I do confess against my self

that

that I did ſit there ſeveral times, and to the beſt of my remembrance, I did ſign and ſeal the Warrant for his execution, and truly my Lord, it was never in my heart to contrive a plot of this Nature. How I came there I do not know, I was very unfit for ſuch a buſineſſe, and I confeſſe I did it ignorantly, not underſtanding the Law, ſo was carried away hidden in the buſineſſe, not underſtanding what I did; therefore my Lord, I humbly intreat this honorable Court, that you will conſider of it, and look upon me as one that out of ignorance did it, and if I had known of my act, I would rather have been torn in peices with a thouſand horſes. When I heard of the Declaration and gracious pardon of his Majeſty, I confeſs I went to my Lord Maiors and layed hold of it, and I thought my life as ſecure as it is now in my own hands: But I do wholly caſt my ſelf upon the Kings mercy, and as I have heard he is a gracious King full of lenity and mercy, ſo I hope I ſhall find it. I was never againſt Government, it is a bleſſed thing that we have it, I hope all the Nations will be happy under it. I ſhall ſubmit to his Majeſty and Government, I can ſay no more, I was not brought up a Schollar, but was a Tradeſman, and was meerly ignorant when I went on in that buſineſs; I do humbly intreat your Lordſhips, that you would as tenderly as may be, preſent my caſe to the King, whom I reſt upon, and leave all to your Lordſhips wiſdome and Diſcretion to do what you will concerning me.----

Councel. *We accept his Confeſſion and do hope he is penitent before God, as well as before the World.*

*Robert Lilburn.* Be pleaſed to give me leave to ſpeak a few Words, I ſhall be ingenious before your Lordſhips. I ſhall not wilfully nor obſtinately deny the matter of fact, But my Lord I muſt and I can with a very good conſcience ſay; that what I did, I did it very innocently with out any intention of murther, nor was I ever plotter or Contriver in that murther, I never read in the law, nor underſtood the caſe throughly; What ever I have done, I have done ignorantly.

Lord Cheif Baron. *Becauſe you ſhall not be miſtaken in your words, God forbid that we ſhould carp at your words, the word Innocent hath a double acceptation, Innocent in reſpect of Malice, and Innocent in reſpect of the fact.*

*Lilburn.* The truth is, my Lord, I was for the withdrawing of the Court when the King made the motion to have it withdrawn, and upon

upon the day (my Lord) that the King was put to death, I was ſo ſenſible of it, that I went to my Chamber and mourn'd, and would if it had been in my power, have preſerved his life: My Lord, I was not at all any Diſturber of the Government. I never interrupted the Parliament at all. I had no hand in thoſe things neither in 1648. nor at any other time. I ſhall humbly beg the favour of the King, that he would be pleaſed to grant me his pardon, according to his Declaration which I laid hold on, and rendered my ſelf according to the Proclamation.

Councel. *We ſhall ſay nothing againſt him.*

*Henry Smith.* My Lord, I ſhall not deſire to ſpend your Lordſhips time, what I have done, I did it ignorantly, not knowing what I did. I ſhall not deny the matter of fact, but as to that I pleaded Not guilty before, it was in relation to that which I was ignorant of, the law of the Nation; I have not been bred to it, I humbly deſire your Lordſhips to conſider, that what I did was done ignorantly not knowing the law.

Councel. *What was that?* *Smith.* I do confeſſe that I ſate in the Court, I do not remember, that I ſigned or ſealed: (both the Warrants being ſhewed him) adds, My Lord I confeſs the hands are like mine, but whether they be ſo or no I know not.

Coun. *Then we will prove it. Is the Seal yours? Smith.* I do not know.

Councel. *Do you confeſs you were in the Painted Chamber the 29. of January? Do you remember any thing of that?*

*Smith.* I do not certainly know that.

Councel. *My Lord, he hath ſaid enough, ſhall the Jury doubt of that which he believes?* *Smith.* I do not remember that I did write it.

Councel. *My Lord, We preſſe it no farther, he hath confeſſed enough.*

*Smith.* My Lord, what I have done I beſeech you conſider, I did it in ignorance, not knowing the law, there were thoſe about me that were able to call me, who were then in Authority, whom I dared not diſobey, if ſo, I had been in danger alſo.

Councel. *My Lords we have done, be pleaſed to direct the Jury upon theſe ſeveral evidences and confeſſions.*

*Smith.* I beg one word, I muſt declare this, I can ſpeak it ſeriouſly, that from the firſt to the laſt of theſe unhappy Wars, I have been a man of trouble and ſorrow, I have been (as many wiſer men have been) run upon error. My Lord, I know not what I have done, I pray that this Court will be pleaſed to be a Mediator for me, that I may have his Majeſties favour, and that this Petition may be received

on

on my behalf. (He then delivered his Petition to the Court) I can rejoyce for that happy settlement that is again in the Nations, and declare chearfully my humble submission to that Government, and desire the Lord will blesse and prosper his Majesty and the Parliament in these Nations. My Lord, I rendered my self according to the Proclamation, I shall say no more,

*Lord Chief Baron.* 'Gentlemen you of the Jury. These prisoners 'that stand before you at the Bar, that is, Mr. *Harvey*, *Pennington*; '*Marten*, *Millington*, *Tichborne*, *Roe*, *Lilburn*, and Mr. *Smith*, there 'are eight, these are persons who by the *Act of Indempnity* are to be 'tryed for their lives for the treasons they have committed, but no 'execution is to be untill the Parliament have further considered the 'matter that is before us, and you are to find the matter of fact; what 'mercy they shall find hereafter, that is to be left (as I told you) to 'the consideration of the Parliament, We are to proceed according 'to law and Justice. They are all indicted for compassing and imagi-'ning the death of our late Soveraign Lord *Charles* the first, of most 'glorious memory; and for that that hath been opened to you, there 'are so many Overt Acts, which are as so many evidences to prove 'that Indictment, which is the compassing and imagination of their 'hearts to put the King to Death. If any one of these be proved, 'that alone is enough to prove the Indictment, which is the compas-'sing and imagining of the heart, that is the Treason, the other are 'but evidences. If any thing burst forth from the mouth, or from the 'hand, as here it is, these are evidences of the imagination of the hearr: 'for this you have heard by the confession of all of them, that they did 'enough to find the indictment, they have all of them confessed their 'sitting upon the King in that traiterous Assembly, which they called 'the High Court of justice. There is one of the Overt Acts expresly laid 'down in the indictment, they took upon them an Authority to con-'sider how to put the K. to death, and that they did put the K. to death, 'but they were mistaken as some of them said, that the actual murthe-'ring of the K. was not their meaning. But if they did that which ten-'ded towards it, they are all guilty of treason; it is all one to you, if they 'be guilty of any of these: either sitting, sentencing, or signing, they 'are guilty, and all of these except two, are guilty of all these; the mat-'ter is clear and pregnant, there is something hath been said by many 'of them with a great deal of expression of sorrow, they did confesse '(all but one) the fact, and that which tended to their defence was

ignorance.

ignorance, but that doth not at all concern you. It will be taken in its due time into consideration; The several deportments of them all, that is for another Judicature. Your business is to find the matter of fact, onely this let me repeat unto you, there is Mr. *Harvey* who hath pleaded several matters which are not proper for you, expressing his sorrow and penitence, We shall not trouble you with that, because they are for the consideration of another Court, We ought all to have a tender compassion, ought to be sorry with and for them that are sorrowful. The like of Alderman *Pennington*. *Marten* hath done that which looks forward more then backward, I could wish with all my heart, he had looked more backward; that is, to repentance of what is past, then obedience to that which is to come; it is a trouble to repeat those things which he said himself, and truly I hope in Charity, he meant better then his words were. *Millington* he hath done the like with the rest, confessed the fact, put himself upon mercy wholly, and said he was over-awed by the present power. This I repeat not as any thing to you, who are to consider only matter of fact. For Alderman *Titthborn* he hath spoken very fully, and truly very conscienciously —— upon the whole matter, acknowledges his ignorance, his sorrow, his conviction in point of Conscience, and I beseech God Almighty, to incline his heart more and more to repentance. They that crucified Christ (to use his own words) through ignorance, found mercy. Collonel *Roe*, he confesses the same wholly and casts himself upon the Kings mercy, and he thought it a blessed thing that the King was restored again, and submitted wholly to mercy; and so did Mr. *Lilburn*, he said he went to his Chamber and mourned the day the King was beheaded, I am very glad he had so early a sense of it. *William Smith* he did it ignorantly, he was not guilty thus far, that was, he was led on, even like one silly sheep that follows another, by what relation I have heard of the person, at that time he was not thought fit to be of the Privy Council. There is nothing more to say to you, the fact is confessed by them all. It is so clear you need not go from the Bar.

After a little Consultation between the Jurors, they returned to their places.—

*Clerk of the Crown.* Are you agreed of your Verdict?
Jurors. *Yes.*
*Clerk.* Who shall say for you? *Jurors.*

Jury. *Our Foreman.*

Clerk. Edmond Harvey *hold up thy hand. How say you, is the prisoner guilty of the Treason whereof he stands Indicted and hath been arraigned, or not Guilty?*

Jury. *Guilty*——

Clerk. *Look to him Keeper.*

Clerk. *What Goods and Chattels, &c.*

Jury. *None to our Knowledge; The same question being asked touching Alderman* Pevington, Henry Martin, Gilbert Millington, *Alderman* Titchborne, *Coll.* Roe, *Coll.* Lilburne, *and* Henry Smith, *they were severally found Guilty by the Jury in manner aforesaid: All which prisoners finding the place where they stood to be cold and unwholsome, prayed the Court they might have leave to be returned to the Prison till the Court shall be pleased to command their further attendance, which was granted.*

The rest of the Prisoners aforenamed, together with *W. Heveningham* brought to their Trial.

Clerk. *You the Prisoners at the Bar, those Persons last called of the Jury are to passe, &c. If you or any of you, will Challenge all or any of them, you must Challenge them when they come to the Book before they be sworn.*

Clerk. Charls Pilfield, Christopher Abdy, George Terry, Daniel Cole, Anthony Hall, Richard Abell, Edmond Starnell, Edw. Pit, William Whitcombe, Francis Dorrington, Thomas Nicoll, Robert Sheppard, in all 12.

Clerk. *If any man can inform, &c.*

Clerk. John Downes *hold up thy hand, &c. and the like were said to all the other persons following, viz.* Vincent Potter, Augustine Garland, Symon Meyne, James Temple, Peter Temple, Thomas Waite, *and* William Heveningham; *Look upon the Prisoners at the Bar you that are sworn, you shall understand that* John Downes *the Prisoner at the Bar stands indicted, &c.*

Kings Councel. *May it please your Lordships, and you Gentlemen of the Jury; The Prisoners at the Bar stand indicted of High Treason for compassing and imagining the death of the late King* Charles *the first, of blessed memory; The Evidence by which we shall make out against them, this treason of their heart in Compassing and Imagining the Kings death, (for that is the substance of the Indictment, and all that follows is but Evidence) will be by proving that they did sit as Judges in that pretended Court of Justice, when the King stood a Prisoner at the Bar; That they did*

*ſentence him to death every one of them, and we ſhall prove againſt all but one of them, that they did ſign that bloody warrant for murthering of the King; and againſt one of them that ſtands at the Bar, we ſhall prove (to his ſhame and Confuſion of face) that he did* ſpit *in the* face *of our late Soveraign* Lord.

*John Downes.* My Lord, I have humbly pleaded not guilty, not with any intention to juſtifie the fact, or to extenuate it; but my Lord, in regard there is that charged in the Indictment, that my Conſcience ſaith I am not guilty of, I durſt not plead guilty, otherwiſe, my Lord, I ſhould not have troubled you with not guilty, but ſhould have humbly taken the ſhame and confuſion for it; It is my intention to put the Court to as little trouble as poſſibly I can; therefore I do moſt humbly intreat of your Lordſhips and the Court, that you will permit me to acknowledge that which will be a ſufficient evidence of my Conviction, if the Court ſo pleaſe, and that you will be pleaſed to hear me on my behalf; If I can humbly offer to you ſome ſpecial thing which is not in the Caſe of another (I could wiſh it had, if it had, we had none been here) I do humbly acknowledge, that to ſit upon that occaſion in that place, is evidence enough to Convince what is in the heart, except by ſome ſignal actions that might happen from ſome that might ſhew how it was his unhappineſs to be put into ſuch a buſineſs, yet had neither malice nor treaſon in his heart; I do humbly conceive, that there is that goodneſs in you, that this plea, this allegation will be moſt welcome to you. My Lord, though there was ſuch a thing, ſuch an unparalleld thing, I was thruſt into this number, but never was in Conſultation about the thing; God is witneſs, I was not put in till the Act was ready to paſſe in a ſecond Commitment, by one of the ſame number; I denyed it, yet they ſaid I muſt make one, I muſt take my ſhare, ſo I came in. Never did I know of his Majeſties being brought to *London*, till he came. My Lords, in this great unhappineſs, I think it is ſome mitigation, and I judge it a happineſs that ſo wiſe prudent perſons as this Court conſiſts of, that you are my Judges that can look back, my Lord, and conſider what the times were then, and can, my Lord, account it a happineſs, that there is a ſpecial wiſdome in you, that in nice Caſes, you will be able to make a diſtinction. I do indeed, my Lords, ſadly, and ſeriouſly confeſs that I was divers times with thoſe perſons that were called Judges of the late K. at ſeveral of their meetings and ſittings; it

is long ago, I cannot say how often, I was several times there. My Lord, I do humbly beg of your Lordships ( I will trouble you as short as I can ) that you would be pleased so far to favour me, as to give me leave to give you a short account of the business; The last day his Majesty came to that which was called then a Court, several times he was brought ( I think thrice ) and his charge was given in words high enough, he laid he could not acknowledge their jurisdiction, that was the answer, my Lord, till the last day, then I confesse I was there. He that was called President, did again and again tell him the heads of his charge, told him he had several dayes given for consideration, that this was the last day that the Court ( as they call'd themselves ) would give him his final answer; if he stood still to day and move to the jurisdiction of the Court, they must take all *pro Confesso*, and would give sentence: My Lord, to this his Majesty indeed with a great deal of Composednes and wisdome told them to this effect, I cannot own your jurisdiction, you have power enough indeed, I wish you may use it well, but because you are so ready to give a sentence which may be sooner given then avoided, I think fit to let you know, that I have something that I desire to speak to my Parliament, for I have something to offer unto them that will be satisfactory to you all, and will be for the imediate settlement of the Kingdome in peace—My Lord, he that was called President, answered that no notice could be taken of any thing, but onely whether he would answer to his Charge: upon that, my Lord, his Majesty indeed ( with the greatest earnestnes that ever I beheld, and yet in no unseemly passion ) told them they might soon repent of such a sentence: that he did Conjure them to withdraw once again, and to consider of it, if it were but half an hour, or ( saith he, if that be too much for you ) I will withdraw. My Lord, here I can make my appeal to him that must judge me when you have done with me, I had not a murderous nor a trayterous thought against him, but Sir I confess such deep passions did fall upon me, that truely my self I was not. I remember the persons between whom I sate, as it fell out, was one Mr. *Cawley*, and Col. *Waulton*, these two I sate betwixt, these were the very words I spake to them, have we hearts of stone, are we men? they laboured to appease me, they told me I would ruine both my self and them; said I, if I die for it, I must do it: *Cromwell* sate just the seat below me, the hearing of me make some stir whispering

he looked up to me, and asked me if I were my ſelf, what I meant to do, that I could not be quiet. Sir, ſaid I, no, I cannot be quiet, upon that I ſtarted up in the very nick, when the preſident commanded the Clerk to read the Sentence, I ſtepping up, and as loud as I could ſpeak, My Lord, I ſpake to this effect, theſe words or to like purpoſe, My Lord, ſaid I, I am not ſatisfied to give my conſent to this ſentence, but have reaſons to offer to you againſt it, and I deſire the Court may adjourn to hear me, preſently he ſtept up and looked at me; Nay, ſaith he, if any of the Court be unſatisfied, the Court muſt adjourn: Sir, accordingly they did adjourn into the inner Court of Wards; When they came there, I was called upon by *Cromwell* to give an account why I had put this trouble and diſturbance upon the Court, I did ſpeak Sir to this effect, (it is long ago the very words, I think I cannot ſpeak) but to this effect I did ſpeak: My Lord, I ſhould have been exceeding glad if the Court had been pleaſed to condiſcend to this gracious expreſſion, but it is not too late for me, I deſire not his death but his life, and that the Nations may be ſetled in peace, the King now is pleaſed to offer, that if he might but ſpeak with his Parliament, he would offer to them ſuch things as ſhould be ſatisfactory to us all, ſo (ſaid I) what would you have? Your Pretence of bringing him to theſe proceedings was, that after ſuch a long and bloody War, his Majeſty would not condiſcend to ſuch conceſſions as might ſecure the Parliaments party, but now you hear him, that he will give every one of us ſatisfaction; I told them, ſadly told them, (I think I may truly ſay, more ſadly then, than at this time) that if they ſhould go precipitantly on, and give Judgement upon him before they had acquainted the Parliament with what the King was pleaſed to offer, we ſhould never be able to anſwer it, the rather, my Lord, (and that I did preſſe with all the little underſtanding that I had) if they did but conſider the laſt concluded order that the Parliament made after the paſſing of the Act for Tryall (that which was ſo called) I ſay there was this order that ſhut up all, That upon any emergency that could not at that time be thought on in the Houſe, the Court ſhould immediately acquaint the Houſe with it. My Lord, I did inſer as ſtrongly as I could to them, That if this were not emergent, I could not tell what was: The King denyed the juriſdiction of the Court, and yet with all vehemency deſired to ſpeak with his Parliament, were not theſe emergencies?

gencies? if not, I knew not what were emergencies. My Lords, beſides this, there was another thing I did preſſe, that I thought was of greater conſequence then this, as to the ſatisfaction of every mans particular conſcience, that admitting (if it might be admitted) though not fit to be admitted) that the King was lyable to his Subjects that they might call him to an account, and might condemn him, (I beg your pardon that I take the boldneſſe to make ſuch admiſſions) But if ſuch a thing might be admitted, Certainly, it did exceedingly become thoſe Judges that were to give ſuch a ſentence (not againſt a Common perſon, but againſt the greateſt) to be very well ſatisfied in matter of fact, to a full evidence before them, that ſuch and ſuch things that were ſaid were true, I do acknowledge this that to the beſt of my apprehenſion (I wiſh it had been ſo to others) there was a great ſhortneſſe in this, I do humbly affirm this, that not one Member of the Court did hear one witneſſe *Viva Voce*; I did preſſe, that if the Court did give judgement againſt the King, without a fair examination, I ſaid it was ſuch a thing, as no Judge at any Aſſizes would do againſt a Common perſon, what I had was from *Peters* and from ſome private Whiſpers, from one of them that is gone, and hath received his ſentence and doom. *Cromwell* did anſwer with a great deal of ſtorm, he told the preſident that now he ſaw what great reaſon the Gentleman had to put ſuch a trouble and diſturbance upon them; ſaith he, ſure he doth not know that he hath to do with the heardeſt hearted man that lives upon the earth, however it is not fit that the Court ſhould be hindered from their duty by one peeviſh man, he ſaid the bottome was known, that I would fain ſave his old Maſter, and deſired the Court without any more adoe, would go and do their duty. Another that ſpoke to me in anſwer was one that hath been before you, and hath received his Sentence but is not dead, (and I deſire I may not name his name) his anſwer was to what I have ſaid, that ſome men were either Scepticks or Infidels. After this I did go into the Speakers Chamber, and there I did eaſe my mind and heart with tears, God only knows. I have an unhappy memory, I have ſlipt many things.

Lord Cheif Baron. *Remember your ſelf by Papers if you have any, no man will hinder you.*

*Downes.* I have no papers, but my Lord for the truth of this, I have ſaid, there are ſome witneſſes that will make the ſubſtance the effect of this appear.

Lord

Lord Cheif Baron. Mr. *Downes, there is one particular before you come to the witneſſes, that after all theſe Convictions you ſigned the Warrant, if you deny it, the Councel will prove it.*

*Downes.* I did never hope or think that any thing I can ſay ſhould be ſo ſatisfactory to you, but things might be retorted upon me, and perhaps what I thought might be ſo extenuating my Crime, may fall out to my diſadvantage: I underſtand you do proceed upon three particulars, either ſigning the firſt Warrant for conſtituting the Court, To my remembrance I know not of it, if my hand was to it I have forgot.

Councel. *Your hand is not to that, but we mean your hand is to the Warrant for execution ——— pray ſhew it him, (It was ſhewn him.)*

*Downes.* My Lord, how to reconcile that which hath been ſaid before with this that comes after, I leave it to you, I am totally at a loſſe. When thoſe times were, how impetuous the Soldiers, how not a man that durſt either diſown them or ſpeak againſt them, I was threatned with my very life, by the threats of one that hath received his reward, I was induced to it. Certainly my Lord it doth argue that there was not malice predominant; Love and Hatred cannot be at the ſame time in one perſon; Deſign my Lord, what ſhould be my deſign? a poor ordinary mean man. Surely my Lord, I could not deſign any great matters or places. I knew my ſelf unfit, I humbly beg you would give me leave to tell you a little what I got. ———

Mr. Soll. Gen. *By your favour my Lord, the Priſoners at the Bar may ſay what they will by way of extenuation, but we expect that when they enter upon theſe Diſcourſes they will ſave your Lordſhips time and ours, by a publick confeſſion and evidence of ſorrow. We cannot ſpend ſo long time to hear theſe long Diſcourſes, we will rather prove it againſt every man ſingly.*

*Downes.* I will trouble you no farther, I do acknowledge all, I humbly ſubmit and beg your favour, and leave my ſelf upon my Countrymen the Jury, and beg the Kings mercy eſpecially. ——— pray ſpare me one word, that you would hear but a Witneſſe or two unto that buſineſſe.

Councel. *He doth confeſſe he ſate and ſigned, we beleive he is ſorrowful and againſt his Conſcience he did ſign, and that he did it out of a fear and from a threat, that he was over-awed (ſo was the Hangman too) but after he had apprehended this ſorrow, and declared his Judgement upon the fact, He ſigned the warrant.*

*Downs.*

*Downes.* My Lord, I do humbly beg his Majesties mercy, I came in upon the proclamation.

*Vincent Potter.* My Lord, my condition requires ease for my body, (he had a fit of the Stone upon him at the same time) I pray that the passing the Sentence for execution may be suspended.

Lord Cheif Baron. *The Execution must be suspended for you are within that Qualification.*

*Potter.* I desire only this, I am not in a condition to declare what I know and would speak, I am mighty ful of pain, if I am under that Qualification let me rest under that.

Councel. *Do you confesse the Indictment or will you put us to prove it.*

*Potter.* I am one that came in.

Lord Cheif Baron. *It is thus with you, whether or no did you sit, sign, or act in this High Court of Justice against the King.*

*Potter.* I will deny nothing, I confesse the fact, but did not contrive it. I am full of pain.

Lord Cheif Baron. *According to the demerit of the Case in Law, you must receive Judgement here but no execution of that Judgement shall be, until the King by advice and consent of Lords and Commons shall order the execution of it. you are to be tryed now. Do you confesse you signed the Warrant for execution of the King.*

*Potter.* I do confesse it my Lord.

Councel. *We do accept it.*

*Potter.* I beseech you let me go to ease my self.

Lord Cheif Baron. *Officer set a Chair for him.* (*which was done*) *Mr.* Potter *sit down.*

*Aug. Garland.* May it please your Lordship, came here this day intending to have waved my plea, & referred my self to this honourable Courr, to be recommended to the Kings mercy and the parliament: But hearing of some scandal upon me more then ever I did hear till within these few days, shal desire your favour in hearing of my Trial.

Mr. Soll. Gen. *My Lord he saith well, for if he had confessed the Indictment, we should not have accepted it.* [*Call the Witnesses*]

*Garland.* I do confess this, I sate, and at the day of Sentence signed the Warrant for Execution.

Mr. Sol. Gen. *And we will prove that he spit in the Kings face.*

*Garland.*

*Gar.* I pray let me hear that, Otherwiſe I would not have put you to any trouble at all.

——*Clench* ſworn.

Councel. *Do you know the priſoner at the Bar*, Auguſtine Garland ?

*Clench.* I know him very well.

Councel. *Tell my Lords and the Jury how you ſaw him behave himſelf, to our Soveraign Lord the King when he was at the Bar.*

*Clench.* I was that day at *Weſtminſter-hall* when the King had ſentence, they hurried the King down, this Mr. *Garland* came down ſtairs by them, towards the bottome of the ſtairs he ſpit in his face at a little diſtance.

Councel. *Do you believe he did it on purpoſe, upon your oath ?*

*Clench.* I ſuppoſe he did it ſomewhat ſuſpiciouſly in that way, I did ſee the King put his hand in his left pocket, but I do not know whether the King wiped it off.

Mr. Sol. Gen. *The King wiped it off, but he will never it off ſo long as he lives: He hath confeſſed that he ſate, that he ſentenced, and that he ſigned: We ſay he contrived it at the beginning, and at laſt bid defiance to the King, I ſhall deſire he may be remembred in another place.*

*Garland.* I do not know that, I was near him at that time, I do not remember this paſſage, I am afraid he is an Indigent perſon, if I was guilty of this inhumanity, I deſire no favour from God Almighty.

L. Ch. B. *I will tell you this doth not at all concerne the Jury, but this Circumſtance poſſibly may be conſidered in another place.*

*Gar.* I refer my ſelf whether you be ſatisfied that I did ſuch an Inhumane act, I ſubmit that to you; I dare appeal to all theſe Gentlemen here (looking upon the priſoners) or any other whether they ever heard of it, nor I was never accuſed for ſuch a thing till a few dayes ſince; but I wave my plea, and refer my ſelf to the Court: Now, my Lord, this is the truth of my Caſe, there is that honorable Gentleman the Speaker of the Houſe of Commons knows, I lived in *Eſſex* in the beginning of theſe troubles, and I was inforced to forſake my habitation, I came from thence to *London*, where I have behaved my ſelf fairly in my way. Afterwards in 1648 I was choſen a member into the Parliament, in *June* 1648. I came in a member of the Parliament. My Lord, after the diviſion of the Houſe, by the in-

ſolency of the Soldiery. Some came to me, and deſired me, that I would go to the Houſe, I was then at my Chamber at *Lincolns*-Inne, I forbore a Week and more; ſaid I, I do not expect to be admitted, for they look upon me as another perſon; ſaid they, if you will go, you ſhall have no contradiction; I went, and went in; when I was in, the firſt buſineſſe that came was the buſineſs of Tryal of the King, and it was put upon me to be Chair-man, for bringing in this Act for Tryal; I did not know how to contradict that power or authority ( be it what it will ) but I muſt obey ( I fear my ruine will follow it : ) in that reſpect my Lord, when I came there, I was forced to run throughout what they had impoſed upon me. —— Having ſeen me, I could not ſhrink from them for fear of my own deſtruction, and thereupon I did go in, that which I have confeſſed to your Lordſhips, not out of any malignity to his Majeſty. I had never any diſreſpect to him in my life; My Lord I did not know which way to be ſafe in any thing, without Dores was miſery, within Dores was miſcheif, I do appeal to all that had any thing to do with me, that I never did any wrong to any that was of the Kings party, but helped them as I was able. My Lord, when the Government was thus toſſed, and turned, and tumbled, and I know not what, and the ſecluded Members came into the Houſe, I knew not what to do in that caſe neither. Aſſoon as this parliament had declared the Treaty, which was the eighth of *May*, the ninth of *May* I appeared before the right honourable the Lord Mayor of *London*, and did claim the benefit of his Majeſties gracious Declaration, and to become a Loyal Subject, as in my heart I alwayes was; and my Lord Mayor being there, I hope he will teſtifie, that aſſoon as I heard of the proclamation, I rendered my ſelf according to the the proclamation; My Lord, this hath been the carriage of me, being alwayes under fear and force, I refer my ſelf to your Lordſhips.

*Symon Meyne.* When I was laſt here my Lord, that that I did then ſpeak *Not guilty*, was not as to the matter of fact, but my Conſcience telling of me, that I had no malice or ill intention to his Majeſty, that was the reaſon. For matter of fact I ſhall acknowledge what I have done, and lye at his Majeſties feet for mercy. I am an ignorant weak man in the Law, I will confeſs the fact.

Councel. *Did you ſigne the Warrant for ſummoning that Court, and did you ſigne the Warrant for Execution of the King?*

*Meyne.* I did ſit in Court?

Councel. *Did you ſign the VVarrant for Execution.*

*Meyne.* My Lord, I knew not of the Kings bringing up, I never was at any Committee.

Councel. *VVe do not ask you that. Look upon the warrant and ſee if your hand and ſeal be not to it.*

*Meyne.* My Lord, it is my hand.

Councel. *Then my Lord we have done.*

*Meyne.* My Lord, I acknowledge it is my hand. By what importunity it may be known to ſome here. I was very unwilling to it, I was told, what fear was there, when forty was there before, and twenty was of the *Quorum?* I was thereupon drawn in to ſet my hand to it. My Lord I never plotted nor contrived the buſineſſe. There was a Gentleman that told me, if I did offer to ſpeak in the Houſe (pluckt me down by the Coat, and he told me I ſhould be ſequeſtred as a Delinquent (the name of this perſon I ſhall omit) ſaith he, you will rather loſe your eſtate, then take away the Kings life. I leave it with you.

*James Temple.* At the laſt time I pleaded to the Indictment *Not guilty*, but I ſhall now deſire to ſee my hand, and if it be my hand I muſt confeſs all, the circumſtances muſt follow; (The Warrants being ſhewn him) I do acknowledge it is my hand to both, I never did conſult concerning

cerning the Court.

Councel. *There are ſome worſe then he, but he is bad enough.*

*James Temple.* I refer my ſelf to the King and parliament and preſented a petition which was received by the Court.

*Peter Temple.* When I was here the laſt time, I pleaded *Not guilty* —— the reaſon was becauſe there are divers things in the indictment, that my Conſcience tells me I am not guilty of, for I had not a malicious or trayterous heart againſt the King. To ſave your Lordſhips time, I will confeſſe what I am guilty of. I was in the Court, ſate there, if I ſee my hand I ſhall confeſſe it.

Councel. *VVere you there when Sentence was given?*

*Temple.* Yes Sir.

Councel. *Shew him the warrants (which being ſhewed him) I acknowledge they are my hand, and refer it to your Lordſhips.*

Councel. *Mr.* Wayte *you heard the Charge read againſt you, what ſay you to it?*

*Thomas VVayte.* Truly my Lord, when I was here laſt, I pleaded not guilty, I humbly deſired then your Lordſhips to hear me a word or two. You promiſed me then I ſhould be heard, I ſhall deſire to ſpeak for my ſelf.

Lord Cheif Baron. *God forbid but you ſhould.*

Mr. Soll. *By your Lordſhips favour we muſt ſpeak firſt, if he will confeſſe the fact, he may ſpeak what he will. Did you ſit in the Court?*

*Wayte.* Yes.

Councel. *The day of Sentence?*

*VVayte.* Yes.

Councel. *Is your Hand to the Warrant for Execution?*

*VVayte.* I know not, pray let me ſee it. ( it was ſhewn him ) My Lord I confeſſe it is like my hand, but I do not remember it.

**Councel.** ***If you do not acknowledge it, It will be proved.***

*VVayte.* Truly my Lord, I do beleive it is my hand.

**Councel.** ***Then the Jury will not doubt it,***

*VVayte.* But I deſire to be heard. I am loath to trouble you much, I will tell you how I was brought into this buſineſſe. My Lord I was a Member of that Houſe, that erected this Court, when the Treaty was in the Iſle of *Wight*. Immediately after the Army came up, I was utterly againſt that Act in the Houſe. When the Army came up to purge the Houſe, I was much troubled at it, I deſired to know the Charge they had againſt them. Two or three dayes after I did move, and there were other Gentlemen, that did move to know what Charge there was. They ſent word we ſhould have a Charge in due time, we ſent and none came but ſaid we ſhould have it in due time: I went to thoſe worthy Gentlemen, to ſee them in priſon, and ſee nothing would be done; I took my leave and made account to ſee them no more, and went down into the Country to *Leiceſter-ſhire*: I was ſent for up ſeveral times. I would not come with threats upon pain of Sequeſtration. My Lords, there were Petitions going up and down in the Country for bringing the King to that buſineſſe, which was againſt my conſcience. I went to *Rutlandſhire*, I heard there were ſome things working there, I uſed my intereſt, and I thank God I ſtopt it. I came then to *London*, when all theſe things were deſtroyed I came to *London*: the day before the Sentence was given, I went to the Houſe ( thought nothing ) ſome were ſent to the *Tower*, and I was ſent for to the Houſe and my name was in the Act unknown to me, but one ſent a Note in my

my Lord *Grayes* Name, that he would ſpeak with me; I went to him, and I ſaid, my Lord what would you do with me? ſaith he, I did not ſend for you. Thereupon *Cromwell* and *Ireton* laid hold on me, ſaid they, we ſent for you, you are one of the High Court, No ſaid I, not I, my judgement is againſt it, they carried me to the Court. When the King deſired to ſpeak with his Parliament, I riſing up, one told me I muſt not be heard, for the Preſident was to give Judgement, and ſaid there was an order that none ſhould ſpeak in Court. Mr. *Downes* did move and they did adjourn the Court, and I was glad I got out; *Cromwell* laughed, and ſmiled, and jeared in the Court of Wards. I hope your Lordſhip will be pleaſed to conſider I was no Contriver, no Soldier that put the force upon the Houſe, that erected the Court; None of the Law makers, or did any thing maliciouſly againſt the King. My Lord, I was looked upon with an evil eye, for regarding the Kings friends in the Countrey: *Gray* he told me the King would not die, I hope he will not, ſaid I; the next day on *Monday*. I went to the Houſe, they were labouring to get hands for his Execution at the Dore. I refuſed and went into the Houſe; ſaith *Cromwell*, thoſe that are gone in ſhall ſet their hands, I will have their hands now. That night I went to the Lord *Grays*, and he ſaid I am afraid they will put him to death. I ſaid ſo alſo. My Lord I have been a great ſufferer, I was drawn in, trapan'd into it, ſince being a friend to the Kings friends, I am almoſt ruined in my eſtate; I beſeech your Lordſhips make the beſt interpretation. I hope you will beleive I was no Contriver, I humbly lye hold upon the Kings mercy and favour. I came in upon the proclamation; I pray that this Honourable Court, will prefer my petition to the King and both Houſes of Parliament, which the Court then received.

*William Heveningham.*

*William Hevening-ham.* My Lord, in 1648. we were under a force, under the tyranny of an Army, they were our Maſters; for a malicious and a traiterous heart I had not. I do abſolutely deny the ſigning the warrant for ſummoning the Court; and alſo that warrant for execution of the King; at the time of the ſealing, I had that Courage and boldneſs that I proteſted againſt it.

Conncel. *We do not queſtion him for that, but for ſitting in the high Court of Juſtice, and that upon the day of the ſentence, do you deny that?*

*Heveningham.* My Lord, I cannot ſay poſitively.

Councel. *If you deny the matter of fact, it muſt be proved.*

*Heveningham.* I cannot ſay poſitively, but it may be I might.

Councel. *Either ſay poſitively you did, or elſe let the witneſſes be call'd.*

*Heveningham.* Truely, my Lord, I think I did, but my after-actions——

Lord Chief Baron. *Mr.* Heveningham, *that ſhall be conſidered.*

Councel. *My Lord, to ſit upon the day of ſentence was high treaſon in it ſelf, and is an evidence of Compaſſing and Imagining the Kings death.*

*Hev.* I ſhall lay hold of the Declaration, I came in upon the proclamation, I pray your Lordſhips to intercede for me to the King, and both Houſes of Parliament, I pray the mercy of this Court.

L. Ch. B. *You of the Jury, they have all confeſſed, and therefore you may go together.*

*Simon Meyne.* My Lords, I have forgot my Petition, it is at my lodging, I deſire I may ſend it at night.

*John Downes* and *Peter Temple* prayed the like favour.

L. Ch

L. Ch. B. *Do, ſend them, they ſhall be received.*

The Jury having conſulted together a certain time, they went to their places.

Clerk. *Gentlemen, are you agreed of your verdict?*

Jury. *Yes.*

Clerk. *Who ſhall ſay for you?*

Jury. *Our Foreman.*

Clerk. John Downes *hold up thy hand —— Look upon the priſoner, how ſay you, is he guilty of the High Treaſon whereof he ſtands indicted, and hath been arraigned, or not guilty?*

Foreman. *Guilty.*

Clerk. *Look to him Keeper, What Goods and Chattels, &c.*

Forem. *None to our knowledge. And the like verdicts at the ſame time paſſed in the ſame manner againſt* Vincent Potter. Auguſtine Garland, Symon Meyne, James Temple, Peter Temple, Thomas Waite, *and* William Heveningham.

*Potter.* I hope I may be freed from Irons, I am in pain, and a man of bulk.

L. Ch. B. *We can give no order in it, we muſt leave it to the Sheriff.*

*Potter.* I beg it of you, my Lord.

L. Ch. B. *We muſt leave it to the Sheriff.*

*Mr. Heveningham* you muſt withdraw from the Bar.

Clerk.

Clerk. *Officer, bring down* Waller, Fleetwood, Hacker, Axtel, Hulet, Penington, Marten, Millington, Titchborne Roe, Lilburne, Smith *and* Harvey, *and ſet them to the Bar, which was done accordingly.*

Clerk. Hardreſs Waller *hold up thy hand, thou haſt been Indicted and found guilty of High Treaſon, what canſt thou ſay, why judgment ſhould not paſſe on thee to dy according to Law?*

*VValler.* My Lords I am now it ſeems Convicted by Law, and ſo adjudged: Your Lordſhips the other day on my deſire told me, I might have liberty to ſpeak upon my trial, I muſt now beg the like upon a condemned perſon.

L. Ch. B. *You are Convicted, not Condemned.*

*Waller.* My Lords, I was the firſt that pleaded Guilty, I bleſs God that he gave me a heart to do it, I find moſt peace in the doing of it; and ſince there is nothing left but hopes of Mercy, I humbly ſubmit it to your Lordſhips to hear me in this ſad condition, that that may make me ſeem more capable of mercy. I have, my Lords, been ſo unhappy to have been tranſplanted out of my Countrey theſe thirty years, I have been but once theſe eleven years in *England*, this muſt needs make me a ſtranger.

L. Ch. B. *I muſt not hinder you, becauſe it is for mercy that you plead, but conſider with your ſelf whether it will not be better to give it in a Petition: I leave it to you, we can do nothing in point of Mercy but Judgement.*

*Waller.* Onely this (my Lord) whether I am not the more capable of your mercy.

L. Ch. B. *That you may underſtand it, the Act of Indempnity of Parliament hath excepted you, yet upon ſome qualifications; we are to proceed according to Law, that is to go to Conviction and Judgement, The Act ſayes, that after Judgement there ſhall be no execution, but that it ſhall be ſuſpended till a further Act of Parliament to be paſſed for that purpoſe; ſo that in the mean time we are to proceed no further then Judgment, That which concerns Mercy, is referred to another place, If you pleaſe*

to

*which was moſt ſafe to my own conſcience, yet I ſhould make it appear, that* I *did appear more to preſerve the King from Tryal and ſentence then any other.*

*Lord Finch.* Sir *Hardreſs Waller*, I have heard of late of your ſorrow, which I was glad to hear of, becauſe you are my kinſman, both by your Fathers and Mothers ſide, & alſo my Countrey-man; I was glad to hear of your great penitence for that horrid crime, and I would have been glad to have ſeen it now; adviſe with your ſelf, whether you do your ſelf any good in ſpeaking to extenuate, when you know there is no man againſt whom there are ſuch circumſtances of aggravation as againſt you; conſider whether a publick penitence would not be more proper.

Waller. *I do beſeech you report me both to his Majeſty and Parliament, and receive me into your grace, as being penitent, truly penitent: To ſay ſo now were a ſmall thing, for the fear of the puniſhment may procure it, but* I *have been more penitent when no eye hath ſeen me but God, when* I *never imagined to be queſtioned for this ſin, then my heart hath yearned in the buſineſs; but* I *ſhall not trouble your Lordſhips, God holds forth mercy, his Majeſty holds forth mercy, the Parliament holds forth mercy. My Lords, let me ſay ſomething to you, though it be but a word of the violence and force of temptation, you may have been under it or may come to it, Chriſt himſelf was under it, we finde that faithful* Abraham *by the power of a Temptation delivered up his wife to commit Adultery, which ſcarce a Heathen would, we finde that valiant* Peter *denied his Maſter, righteous* Lot *committed inceſt. None abhors this fact more then* I *do; I have done it ſo long before hand,* I *need not be affraid to ſpeak it in the face of the Judge of all men, that is all* I *ſhall ſay,* I *rendred my ſelf three times, I had as much opportunity to make my eſcape as any perſon whatſoever.*

*Lord chief Baron.* It is underſtood Sir *Hardreſs.*

*Clark.* *Henry Marten* hold up thy hand; thou art in the ſame condition, what canſt thou ſay for thy ſelf why Judgement, &c.

Marten. *I claim the benefit of the Proclamation.*

*Clark.* *Gilbert Millington* hold up thy hand, thou art in the ſame condition, what canſt thou ſay for thy ſelf why judgement, &c.

Millington. *I ſhall not trouble you with long diſcourſes, I will ſay no more but this, I have made a publick reſentment of my ſorrow for this offence formerly, and many times, I ſhall now deſire no more, but humbly that I may have the benefit of the Proclamation, and pray his Majeſties moſt gracious pardon.*

*Clark.* *Robert Tichborne* hold up thy hand, thou art in the ſame condition, what canſt thou ſay for thy ſelf why Judgement, &c.

Tichborne. *My Lord, I will not trouble you with any repetitions, I have made my humble requeſt before, I leave it with you.*

*Clark.* *Owen Row*, hold up thy hand, thou art in the ſame condition, what canſt thou ſay for thy ſelf, why Judgement, &c.

Row. *My Lord, I have no more to ſay then I ſaid before.*

*Clark.* *Robert Lilburn*, hold up thy hand, thou art in the ſame condition, what canſt thou ſay for thy ſelf why Judgement, &c.

Lilburn. *I ſhall refer my ſelf without further trouble to the Court, my Lord, I beg the benefit of the Proclamation:*

*Clark.*

BRITISH MUSEUM

# News from
# BRUSSELS.
## In A
# LETTER
## *FROM A NEER*
# ATTENDANT
## ON
# His Majesties
## PERSON.
## To a Person of Honour here.
*Which casually became thus publique.*

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Printed in the Year, 1660.

# Introduction

# A LETTER FROM Bruſſels.

*Honeſt Jack.*

THine, by *T. L.* our true Poſt-pigeon, and (I would I could not ſay) only expeditious perſon, was mine before the morning; and our Maſters the ſame Minute, who took no ſmall delight therein: for he read it thrice, and is reſolved (and ſwore to boot) thou art the firſt ſhall kneel under his ſacred Sword. Sir *C. C.* has his heart, and at firſt view he thought of wafting thither, leſt he ſhould think his Loyalty was ſlighted: but *H. I.* and I adviſed otherwiſe, and with ſome a doe diverted that intent, and got him to ſignifie his Royal pleaſure in the incloſed; which, inſtantly diſpatch by *Minyard* way: *F. H.* has alwayes paſſage ready. Sir *M. M.* two hours after brought good

News from his cold Countrey; but *Calvin* ſmells too rank for us to venture thither: they firſt betrayed his Royal Father, and after that his Sacred Self: nor are our Fortunes now at that low Ebb, to reimbarque our All in that old-Leaky-bottom. Prithee perſwade *Sam.* to be ſilent, tell him it is our Maſters Pleaſure. Thinkeſt thou none knows as well as he who firſt conjured up this Divel, and curſed them that would not Curſe and Fight againſt His Majeſty in *Meroz* Name: yes, we can look though through our fingers: This Rebellion firſt bubbled up in Presbyterian Pulpits, yet it's impollitick to ſay ſo much: we alſo know 'tis more for fear of the Phanatiques than for love to us, they now are Loyal: ſo alſo it is our Neceſſity, not Choice, that makes us court them: Hug them you cannot Hang, at leaſt until you can: would *Lall.* had longer Lips; I hate to ſhew the teeth before we bite: we choak our Dogs with Cruſts as well as Pins, no Curre will eat a Pin alone; a blew Ribbon and a Starr we know will unbecome a Rebels ſhoulder, but Fiſhes bite at baits; he is an Aſſe that Angles and hides not his Hook: How moſt unhappy is my Soveraign Lord, that the impatience of his Friends ſhould be as perillous to his Fortunes, as the pikes of his Enemies we never yet well minded our next work; he's a Fooll that thinks when the Needl's in, the Thread won't follow: ſet then your helping hand to this, let that alone; procure the cauſe and 'tis impoſſible to ſeparate the effect. But he comes in on terms? and is bound up? Tuſh! remember that bleſſed line I marked in *Machiavil*; he's an Oaſe that thinks an Oath, or any Tedder

can

can tame a Prince beyond his pleasure: *Zeruiah's* Sons lived to *David's* great dislike, but 'twas but till he could kill them more conveniently: and prethee what did *Shimei's* pardon do but planch him up: they can't abide to see his house a Roundhead-hive; tis true, tis much that any can: Are you yet to learn to make Necessity a vertue? who doubts but that *C. Borgia* did his businesse better, by lulling *Vitelloz* a sleep, than to have hazarded all by the incertain chance of Fortune; 'tis a Romance to think Revenge can sleep, but like a Dog, to wake at will: 'Tis true, served we a Prince that needed spurs, this humour might be cherished; but alas, we rather use all the Art and Arguments we can to Rein him in; hadst thou but seen his passion when *Ms. Pedigree* came over, thou wouldest have said he had steel enough --Seal *Rob.* lips, I pray thee, for fear it may disserve him at dinner; 'twas, and in some degree is, too publique. There need no record for a Rival; yet is it laid (by strict command) next *Murrye's* Manuscript, and will one day be reviewed; till then *Plantaginet's* in pickle. But I'le retain our (most absolutely necessary) discourse, for thy farther satisfaction: canst fancy, that our Master can forget he had a Father, how he liv'd and died, how he lost both Crown and life, and who the cause thereof? never Monarch yet had a memory halfe so bad: Ne'r fear't, there's fire enough in his fathers ashes (though yét invisible) to burn up every adversary; only our clamorous impatience would have all at once: give time, he ascends most safe that does't *gradatim*; overstraining not onely spends the strength too fast, but does endanger falling more: Remember our dread Leige

Lord

Lord (if ever guilty of an error) miscarried here; from what a hope fell he and we, for want of following *S. S.* advice: All or none's a Game not for a Prince to play, but Desperado's, whose fortunes rise and set with every Sun. The *Presbyter* will give up the *Phanatique*, a handsome bone to pick at first: I like it better far than all at once; excess brings surfeits: Thus half the beard they shave themselves, let us alone with t'other: Drown first the Kitlings, let the Dam that litter'd them alone a little longer: They glory they are *Orthodox*; hear, and hold still thy head, let us alone to find out fresh *Phanatiques*, and beat them back into King *Harry*'s Codpiece. We know the Sectaries had a Sire, and whose spurious brood they are; even as the Puritan was the off-set of the Protestant: *Spain*'s Attach, revive as oft as well thou canst; tis a good blind, and propagates our Masters Interest: *Wat* came since my last, and will not let our Lord alone, till he sees a Lecture up in Court, and Chaplains preach before him, ordained by the Presbytery: and one *waldense* is come already. O *Jesu*, *Jack*! I want an iron hoop to keep my sides from splitting, to see my poor Prince bite's lips for halfe an hour long, while that *Dulmano* begs a blessing (as he calls it) as our Mech beggers do their Bacon at the Farmers doors: *G.* got behinde him yesterday and made mouths which the Puppy by an unhappy turn of his head perceived; but His Majesty seeing all, prudently anticipated his complaint, and with a Royal gravity, not onely rebuked *G.* but immediatly dismist him his service.

We

We all made application to the Parſon to mediate to our Maſter for *G.* his reſtoration, which he did: and after much intreaty, his requeſt was graciouſly granted; but not for *G.* his ſake, but for his, and but on future good behaviour neither: *M. H.* and J. were in the preſence at night, but I thought we ſhould have ſplit our ſpleenes a laughing: but by theſe means all was healed: and henceforward we are all commanded to be plaguy-godly. *H.* bid me hand his ſervice to thee, he ſwears he hath horn'd 15 Cuckolds within this 14 dayes.—— Mind the Militia moſt, talk not of disbanding, one pin naturally drives out another. *A. B.* at parting ſwore he would ſee that execrable Exit raced out; whom ſo aſſiſt he may not ſuffer. Let *Th.* continue his Careſſes, and bid him not jeopard ſuch broad Joques no more; he ſayes ſhe ſtinks of Piſs and Horſe-ſpice, *D. F*, C, and ---court upon all occaſions: if *M, M*, and--ſtand right, we ask no more, City, Land, and Sea is our own: that reformation likes us rarely w l, though we wonder he would hazard all upon ſuch a raſh adventure. Bid *Phil.* and's brother both be cloſe they now may liſt and none the wiſer: we dared not let the *Nuntio* ſee the Sun. We hope our friends droop ſtill, and curſe him whom moſt they covet.—— Let not thy Lady know our *Italian* tye: the Devil can't track us if we 3 keep our tongue within our teeth. Fret not nor afflict thy ſelf nor friend, for we reſolve the Rogues that left the Rump, ſhall feel the ſcourge that Loyal hearts laſh Rebels with, as well as others; a Roundhead is a Roundhead; black and white Devils all alike to us.-- Thinkeſt thou that we can breath in peace, while we ſee a little finger left alive that hath

been

been dipt in Royal blood? or his adherents? No, a thought of mercy more hateful is than Hell: but Cooks may be conquerors, and a plate perform equal execution with a Piſtol, and with leſs report. Be quiet then, let's uſe all art to make them take the halter tamely. Preſſe the ſpeedy raiſing of the City Regiments.—And cut the Rogue at Stern: what folly is't to think we can ſafely ſerry while the Fleet's Phanatique? This done, let our cauſe miſcarry if it can. *Maz. met Wat*, and gave him ſound advice.-- Get Arms, but buy them not in ſuch ſuſpicious numbers: that if all fails, we may repair to them, and cut our paſſage to the Throne through Traitors blood. Farwel.

*Bruſſels*, S. V. *March*
10. 1659.

BRITISH MUSEUM

FINIS.

JOHN KEYMORS

# OBSERVATION

MADE UPON THE

# Dutch Fishing,

About the year 1601.

DEMONSTRATING

That there is more Wealth Raised out of Herrings and other Fish in his Majesties Seas by the Neighbouring Nations in one year, then the King of *Spain* hath from the *Indies* in four.

AND

That there were twenty thousand Ships and other Vessels, and about four hundred thousand People then set on work by both Sea and Land; and maintained only by Fishing upon the Coasts of *England*, *Scotland*, and *Ireland*.

*LONDON*,
Printed from the Original Manuscript, for Sir *Edward Ford* in the year, 1664.

BRITISH MUSEUM

# JOHN KEYMORS
# OBSERVATION
## MADE UPON THE
# Dutch Fishing,
## About the year 1601.

BEing desirous to look into the World, to get knowledge for my Countrys good, I travelled *France*, *Germany*, and divers other Places, and Free-states. I found in *Lubeck* 700. great Ships, in *Hamborough* about 600. *Embden* lately a Fisher Town, within the memory of man not known to have 60. Ships, hath 1400. almost as many as belongs to all *England*. *Holland*, not so big as one of your Majesties Shires; 18. Dutch miles long, and 5. miles broad, hath about it 30. walled Towns, 400. Villages, and 20000. sail of Ships and Hoyes; which is more then *England*, *France*, *Spain*, *Portugall*, *Italy*, *Scotland*, *Denmark*, *Polland*, *Sweethen* and *Russia* have all put together: and builds every year 1000. new Ships, having in their Soil neither matter to build them, nor Marchandizes to

ſet them forth, ſtanding in admiration how this might be, I traced the Countries twice over from Town to Town, and from thence along his Majeſties Sea Coſts of *England*, *Scotland*, and *Ireland*; where I found not only an *Indian* fleet of 40. or 50. ſail, with 5. or 6000. people yearly imployed in this Your Fiſhing, one of the greateſt Sea-buſineſſes of the World; but at the leaſt 20000. ſail, and above 400000. perſons of all Nations ſet on work in his Majeſties Seas, about taking thoſe innumerable riches of Herrings, and other fiſh which offer themſelves to his Majeſties Kingdoms above all Nations.

The *Hollanders* have above 4100. fiſhing Ships and Veſſels, whereof 100. Doggerbotes, 700. Pinks and Wellbotes, 700. Stranbotes, 400. Evers, and 400. Galliotts, Drivers, and Todbotes, and 1200. Buſſes; ſince I ſollicited this to have 200. Buſſes built for *England*, the *Hollanders* have made 800. new Buſſes more, in all belonging to *Holland* 4100. Buſſes and other fiſhing Ships.

The 1500. Strandbotes, Evers, Galliotts, Drivers, and Todbotes fiſh upon their own Coaſts, and every of them ſets on work one other Veſſel to fetch ſalt and tranſport fiſh into other Countries, ſo is their 3000. Veſſels, and 40000. perſons employed and maintained by fiſhing upon their own Coaſts.

The 700. Pinks and Welbotes from 60. to 100. Tunns a peice, Doggerbotes of about 150. Tunns a peice, do fiſh altogether upon the Coaſts of *England*, and *Scotland* for Cod and Ling only, and every of theſe do ſet on work one other Veſſel, to fetch ſalt and tranſport fiſh into other Countries, after they are brought into their own Countries out of his Majeſties Seas.

The 2000. Buſſes from 60. to 100 and 200. Tunns a peice, employed only to take Herrings about *Baughamneſs* in *Scotland*, all along the Coaſts of *England* to the *Thames* mouth, from *June* to *November* 26 weeks; and one of their great Buſſes do take 8, 12, or 20. Laſt of Herrings at a draught in one night, and carries into their own Country 40, 50, or 100. Laſt in a Buſſe; and our fiſhing continueth but ſeven weeks with ſmall Crayets and Cobles from 5, to 10, 20. Tunns when the Herrings come home to our own road ſtead, and we take 1, 2, or 3. Laſts in a night, and when we bring home ſeven it is a great wonder.

Beſides

Beſides the number taken by their 2000. Buſſes, the *Hollanders* have above 400. other Veſſels, called Gaynes and Evers, which do take Herrings at *Yarmouth*, and there ſell them, and carry away ready money: They have yet 500. other Ships uſually Trading every year to *London* with Codd and Ling taken in his Majeſties Seas, as alſo other parts of *England*, and here ſell them, and carry away moſt fine gold, which is made into baſe gold beyond Seas, a great hurt to the Wealth and Strength of our Land, and hinderance to Navigation and Marriners, and imployment of the poor of this Nation.

The *Hollanders* have made a Law in their own Country, that we ſhall ſell no White Herrings nor other fiſh there (upon penalty of confiſcation) becauſe they will have no other Nation to ſerve their Country with fiſh, but what they take themſelves; as well for the increaſe, as maintenance of Navigation, and ſetting their people on work. *Hamborough* likewiſe hath made an order that we ſhall ſell no Herrings there, before their Buſſes be come from Fiſhing, and have ſold all theirs. Thus they take Herrings in his Majeſties Seas, make laws to croſs and hinder us in our own Sales, for the inriching, and ſtrenghening themſelves, and the increaſing their Ships and Marriners.

The *Hollanders* do take in the time of 26. Weeks with 2000. Buſſes about 300000. Laſts (12. Barrells to the Laſt) which are ſold to the Merchants at 10, or 12l. the Laſt, the Fiſher-mans price which amounteth to 3. Millions and 600000l. The Merchants tranſport and ſell them into *Pomerland*, *Spruceland*, *Poland*, *Denmark*, *Leifeland*, *Ruſſia*, *Sweeden*, *Germany*, *Brabant*, *Flanders*, *France*, *Lukeland*, ſome into *England*, and other parts, and ſo ſell them from 16, to 18, 20, 30, and 36l. the Laſt and more, which I cannot eſteem to be ſold for leſs then five millions of pounds: All this benefit they make yearly of Herrings, taken out of his Majeſties Seas.

1000 in a Barrel
ſo 12000 Herrings
make a Laſt

Beſides the Buſſes of *France*, *Hamborough*, and *Embden*, the *Hollanders* with their 2000. Buſſes do get the ſtart of us for the Herring fiſhing 19. weeks, and every Buſs doth take her ſelf twice or thrice full, and they do ſerve near 20 Kingdoms, Dukedoms, and Free-States in the Eaſt and North-eaſt Regions, before our great fiſhing begins at *Yarmouth*; and before our fiſhing be

be ended. The *Sound*, and the Rivers that way are frozen, ſo we cannot paſs, nor vent into thoſe places.

For Cod and Ling they ſend forth about 100. Sail from 50. to 100. Tunns a peice, every Ship making 4, or 5, and ſome 6. voyages in a year, where our ſmall Crayers ſeldome make 2. voyages; which huge quantity of Fiſh and Herrings taken in his Majeſties Seas they carry into their own Country, and afterwards by their own ſhipping tranſport them into Forraign Kingdoms, ſo much to their exceeding advantage, that in ſhort time they will be able to eat all our ſhipping out at Sea, as may be conjectured by their former increaſe in ſo few years.

Beſides the principal adventurers, I noted that thouſands of Men, their Sons, Daughters, and Maid Servants, which take 40s. or 3l. wages in a year, ſome of them have 5l, 10l, and 20l. addenture and more in the Buſſes, whereby they grow to great wealth before they come to be married, beſides the Men Servants.

The return of Marchandize, Wares and Coyn, for Herrings and other Fiſh (out of other Countries) is ſo great, that it maketh the Banck for Coyn, and Staple for all kind of Merchandize in *Holland*, where nothing groweth but a few Hoppes, Mader, and Cheeſe; ſo they make the Commodities of other Kingdoms ſerve their turns, to ſet their Ships and People on work, wherewith they inrich and ſtrengthen themſelves, to the admiration of all Nations. The States of *Holland* receive more Duties and Cuſtomes for Laſts of Herrings, Fiſh, and other Profits inwards, and outwards (in one year) then all the Cuſtomes of *England* comes unto in two years. There was paid above 300000l. 14. years paſt, beſides the Cuſtome of all other Marchandize, for Exizes, Licences, Waſtage, and Laſtage.

It is moſt evidently true, that his Majeſties Seas are far richer then the King of *Spains Indies*, and there is more made of Fiſh taken by the *French*, *Biskers*, *Portugall*, *Spaniards*, *Hollanders*, *Hamburgers*, *Breemers*, *Embdeners*, *Scotiſh*, *Iriſh*, and *Engliſh* in one year, then the King of *Spain* hath in four years out of the *Indies*; for there is about 20000. Ships and Veſſels, and above 400000. Perſons ſet on work, and maintained only by the Fiſhing upon the Coaſts of *England*, *Scotland*, and *Ireland*, ſuch an excellent

lent Jewel hath Neighbouring Princes and States upon his Majesties Seas.

There was in *Holland* 126000. Marriners 20. years past, since which time their Shipping and Marriners are mightily increased, every Town is grown as great again as they were before the Wars, and beautified with an infinite number of sumpteous Buildings, enriched with all kind of Marchandizes and Coyn; And where they had but one Haven in a Town before the Wars, they have now 2, or 3. and yet not able to hold their Ships, if they were all at home (at one time.) And they employ daily much of their studies to open the gap of Trafique, and to make fullness of Trade, because it maketh a rich Commonwealth; and they spare for no cost, nor deny any privileges that may advance trade, and defend them from their enemies; whereby they prevail greatly.

These Herrings are sent Southward, by 20, 30, or 40. Last in a Ship, and makes rich return for Herrings, with Oyle, Wine, Prunes, Honey, Wooll, and such like commodities, as *France*, *Spain*, and *Portugall* yeild, with much Coyn.

For the *Streights* they load 60, or 70. Last of Red herrings in a Ship, returning for Herrings, Velvets, Sattens, and all manner of Silks, Allums, Currans, and such wares as those parts yeild, with much Coyn.

Into the East Countries they load 50, or 60. Last of Herrings in a Ship, making up their Lading with *French* and *Italian* Merchandize, which they brought home for Herrings; and return for Herrings from the East Countries, Corn, Wax, Flax, Hemp, Pitch, Tar, Soap-ashes, Iron, Copper, Deal, Clapboard, Wainscot, Mastes, Timber for houses, Shipping, Waterworks, Polish, Dollers, and *Hungary* Gilders.

Upon the River of *Rine* towards *Weesell*, *Collein*, and *Franckford*, other Vessels called Lurdains, drawn up with Horses, containing 3, 400. and some 5, and 600. Tunns a piece; the Skippers have no other houses with their Wives and Children to dwell in, and are born in them, and go always with them; these Vessels carry up 50, or 60. Last of Herrings a piece, and Barrelled Fish, and store of Salt upon Salt, returning for the same commodities; Iron, Steel, Glasse, Milstones, Renish wines, Battery,

Plate

Plate for Harnes, with other ingnisions; Silks, Velvets, Bom-
toes, Rush, Fustians, and other [illegible] from Fowey (the
place, [illegible] in Britany; as whole Parsels of Hats of
Castiars, Gilders, and rich Doilets; the same kind of [illegible] pla
up to *Lickeland* in like sort; and these do make but one Voyage in
a year, but very rich.

To *Brakant* and *Flanders* they had 26, and 30. Last of Her-
rings in a Ship; returning for the same most part Coyn,
quantity of Tapistry, Sayes, and Halfe Hops.

Besides of those Herrings [illegible]
and (none other) are vented in great abundance into G[illegible]
*Alexandria*, *Venice*, *Leagorne*, and all over the *Mediteranean*
and other parts even as far as *Brazill*.

Into the East Kingdomes and Dukedomes, the *Hollanders* vent
above 100000. Last in a year, and we not 80. Last. At *Roan*
this last year we had not 80. Last, and the *Hollanders* had and sold
there 300. Last, and so in other parts accordingly.

Thus are we eaten out of Trade, and the bread taken out of
our mouths in our own Seas, and the great Customes carried
from his Majesties Coffers to Forreign Princes and States, by
the greatness of their Busses, and the multitudes they take 10.
weeks before our great Fishing begins at *Yarmouth*, and our
Fishing lasteth but 7. weeks with small Crayers and Gobles,
where their great Busses continue the Herring Fishing 26.
Weeks together.

So it appears how they make the Commodities of other Na-
tions serve their turns to enrich themselves, and increase their
Shipping and Marriners, and to set their people on work to
good benefit, to enlarge thier Cities and Towns, and to streng-
then, and fortifie themselves exceedingly; and what an infinite
store of Wealth they bring into that small Country having so
slender a foundation as Fishermen, is admirable to behold.

Thus they make their Landmen Seamen, their Seamen Fisher-
men, their Fishermen Marriners, Marriners Merchants, and of
their Merchants Statesmen, to govern and make their Country
prosper by long experience.

It followeth that one Busse of one 100. or 80. Tunns imploy-
eth three Ships, sets on work and maintaineth both at Sea and
Land

Land above 400. persons, and 30. several trades and occupations; that it may evidently appear how the 1000. Sail of Pincks, Welbotes, and Doggerbotes, and there 2000. great Busses, do set on work 200000. persons, and 7200. Sail of Ships of the *Hollanders*, by Fishing upon his Majesties Coasts.

First, she sets on work in her own Hull, within her self, of Marriners and Fishermen 40.

Secondly, she imployeth three Ships besides her self, one to fetch home salt into their own Country, another to carry forth Barrels and Salt into her at Sea, and to bring her Herrings back into her own Country; and the third, to transport her Herrings beyond the Seas, and in 3. Ships and Busses 100. Marriners are imployed: Thus are 3. Ships and an 100. persons busied at Sea by one Busse.

Thirdly, at Land of Spinners and Hempwinders to make Cables and Cordage, likewise Yarn Twine, and Thred for the making of Nets and Lines, Weavers to make Sail-cloth, Viewers, Packers, Tellers, Dressers, Couchers to make the Herrings lawful Marchandizes; Tanners to Tan their Nets and Sails, Saltmen to make Salt upon Salt, Coopers in great abundance to make Barrels, Block, and Bowl, Makers for Ships, Porters, Keelmen, Lightermen, and Labourers to be imployed in carrying and removing; as also Hewers and Squarers of Timber, Sawyers of Planks, Carpenters, Shipwrights, Smiths, Sledgemen, Charmen, Boatmen, Brewers Bakers, and a number of other persons too tedious to repeat. The Sailsmen and the Marriners, with divers others, depending upon this unsearchable business, there cannot be less then 200, so that with the former there are 300. persons and 3. Ships set on work by one Busse.

And having yet besides all these that work, they have their Wives, Children, and Families hardly to be numbred, that neither do nor can work, and yet are maintained, and live wealthily out of this one Busse; the Marchants, Sailsmen, Owners of Ships, Masters, Marrinors, and Fishermen cannot deny this.

I have seen of *English*, *Scottish*, *French*, *Hollanders*, *Embdeners*, *Bremers*, *Hamburgers* and others, near 3000. Sail Fishing at one time, upon the Coast of *Scotland*, *Shotland*, *Orkeney*, *Cattney*, *Northfarvel*, *Fowl Isle*, and divers other places.

All the Busses of *Holland*, *France*, *Embden*, and *Hamborough* have their first lading of Herrings near *Baughavanes*, and above 1000. Sail of Pincks, Welboats, Doggerboats take Cod Ling, and other Fish there. Furthermore, all the great Staple Ling called *Holland* Ling, taken only by the *Hollanders*, are gotten about these Isles, wherewith they serve all Christendome.

From the Staple near *Barwick* all along the Coast of *England* to the *Thames* Mouth, are innumerable shoals and variety of Fish; besides the multitude of Cods, Lings and Herrings, as Makerels, Whitings, Haddock, Soals, Thorneback, Floith, Scate, Brett, Gurnet, Turbutt, Plaice, Congers, Butts, and others innumerable.

From the *Thames* Mouth all over the Coasts of *Kent*, *Sussex*, *Hampshire*, *Wiltshire*, and *Dorsetshire*, not such store of Cod, Ling, and Herrings; yet the like variety of other Fish (and more) as the eyes of the Fishermongers of *London*, the Country, and their Fishermen can testifie.

All over the Coasts of *Devonshire* and *Cornwall*, exceeding great shoals and variety of Fish, with Pilchards and Herrings; the last year, in *June*, such multitudes of Herrings came so near the Shoar of *Claverly Key*, and all over those places, that the people went with that small provision of Nets they had, and took and drew them up the Land in such plenty, that they were sold for 4s. the thousand, the number of a Barrel, and were such store that they gave them to their Hoggs to eat, and buried the rest in the ground, for lack of Salt and Barrels to preserve them.

Also about 20. miles from thence, there was abundance of Herrings spread the Seas, but the people took no more then they could spend presently, for lack of provision to take

take and preſerve them, of which there is great want about *England*.

From the Mouth of *Severn* round about the Coaſt of *Wales*, *Hollihead*, *Weſtcheſter*, *Liverpool*, and ſo along the Coaſts of *England* to *Scotland*, there is ſtore and variety off Fiſh.

All over the Coaſt of *Ireland*, *Galloway*, *Slego*, and the Coaſts of *Cannaugh* to *Ballifhanon*, the *Band*, and the North of *Ireland*, *Longford*, *Karickfargus*, and *Strengford*, there is ſtore and variety of Fiſh; beſides the multitude of Cods, Lings, Herrings, Salmons, Seals, Porpoſes, Wherpool, and Dogfiſh.

In the Mouth of *Ireland*, not far from *Dunegal*, there are ſuch multitudes of Herrings, that it is hardly to be believed, ſo big and large that 3. Herrings make a yard in length: From *Carlingford* to *Dundalk*, the *Bay* of *Dublin*, and *Waxford*, *Waterford*, *Bear-haven*, *Crooke-haven*, and ſo round about the Coaſt of *Ireland* the like variety, and Fiſh in abundance.

The *French*, *Hollanders*, *Embdeners*, *Bremoners*, *Hamburgers* and others, Fiſh upon the Coaſt of *England*, *Scotland*, and *Ireland*; and this is the difference between them and us, they go forth in *June* to ſeek the Shoals of Herrings, and having found them, do dwell amongſt them, conning along with them until *November*, taking them in great abundance; and we ſtay till the Herrings come home to our own Coaſt, and ſome time ſuffer them to paſs by us before we look out, and ſo looſe Gods bleſſing.

All theſe Nations do beat upon all his Majeſties Coaſts for Fiſh, with great Ships take and carry away innumerable riches, when our little Boats, Crayers, and Cobles, dare not look out at Sea but in fair weather (for in fowl weather the Sea ſwalloweth them up) neither dare they Fiſh far from the Shore in fair weather their Boats are ſo ſlender and ſlight.

The people of *Ireland*, and round about the Coasts of *England*, after they have been at Sea and brought home their Vessels full of Fish, will not go to Sea again for more till those bespent and they in debt, till necessity compells them, unless it be some few, and they prosper, yet they are loath to take too much, lest it should be too cheap, for they never seek other Markets but their own; and our Fishermen go to Sea over night to take Fish to serve the Markets the next day, and some at 3. a clock in the morning go to fetch Fish, and yet retura home at 9. a clock in the same morning to serve their Market with their Boats full, Laden with God and Ling and other Fish, and then to the Alehouse, drinking day and night, till all be spent, and they in debt, and can be no longer trusted, and then to Sea again for more. This is the life of these people where great riches is to be gotten.

Such an excellent benefit hath God sent his Majesty and his Kingdomes, as, let all the Kingdomes in Christendome be put together, they are not able to compare with the Fishing upon these Coasts, nor yet the *Spanish Indies*: I speak it knowingly.

And further, let all the Mines of these Kingdomes, as Lead, Tinn, Iron, Copper, Allum, yea, Cloth and Wooll be put together, yet, the Fishing will do more good to his Majesties Kingdomes then all these, in these four points.

First, for the augmentation, maintenance, and increase of Navigation and Marrinors, which hath ever been held a special Jewel for *England*.

Secondly, in bringing into his Majesty and Kingdomes, great riches of all kinds, and making such strength of Snips and Marriners, as will make all Nations of the World to Vail the Bonnet to *England*.

Thirdly, for the bringing in, and making imployment for all people, both young and old, for the keeping of them from begging and stealing, and other disorders; and hereby his Majesty shall make exceeding great Trade and Trafique within this Land, upon the Seas, as the like hath never been effected by any King of *England* for the general good.

Fourthly,

Fourthly, for the bringing in, and making all things plenty, and causing many Storehouses in *England* to be erected and filled full of Fish, to serve our selves and transport into other Kingdomes; like as *Blackwell Hall* in *London*, and other places in *England* are with Cloth, which continually are emptied and yet always filled.

It is most evident true (God be thanked) that there is Fish and Herrings enough, and vent enough for us all, if we had as many Busses as they; for the 20. hundred great Busses belonging to *Holland*, *France*, *Embden*, and *Hamborough*, and above 200. new Busses which they build and increase yearly (all not able to serve Christendome with Fish and Herrings) they are scarce and dear in most Forraign Kingdomes in Lent; and afterwards few or none to be had untill *August*. For in the East and North East Regions, and so in most Forraign Kingdomes and Dukedomes, the Herrings are every days meat Winter and Summer, as well to make them drink as to suffice their appetites, in such exceeding request are the Herrings that there is great utterance for them in all parts through Christendome, and in the Heathen Countries; so that if we had 20. Score Busses, and increase them to 20. Hundred, yet is there vent enough and Herrings enough for us all to take upon his Majesties Coasts, God continue it.

And for as much as God hath sent this excellent Blessing to his Majesty above all other Kings, and that this huge quantity of Fish and Herrings do offer themselves to his Majesties Kingdomes beyond all Nations, and that it is manifest that the Trade of Fishing is work-master to all other Trades, and by that means the Dutch increase their Farthings to Pounds, and their Pounds to Thousands, and what fruitfulness is in their Country? and not a begger there, every one getting his own living, is admirable to behold, that the poor man though he be blind, and have but one Hand, will get his own living by turning the Wheel for making Cables and Cordage; and others that have not one Leg, will get his own living, sitting on a Seat, with knitting;

ting and making of Nets and Hooks; every Boy and Wench from 10. and 12. years and upwards, will get their own living by winding Hemp, ſpinning Yarn, making Twine and Thread for Nets, ſo idleneſs, beggery, and penury will be driven out of this Land, by commodious conſtitutions as in other places they do, which never any Statute heretofore made could bring to paſs, to the great glory of God, and comfort of his Majeſties Subjects.

BRITISH MUSEUM

Licenſed,
*Febr.* 22. 1664.

*Roger L'Eſtrange.*

# QUÆRIES!

## Or a Diſh of

# Pickled-Herring

## Shread, Cut and prepared according to the DUTCH Faſhion.

## For the ſqueamiſh Conſciences of *Engliſh* Phanaticks, who pray for the New-building of their Old

# BABELL.

Printed at *Amſterdam* for the uſe of the High and Mighty States of *Holland*, and re-printed at *LONDON*, 1665.

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# QUÆRIES.

## Or a Diſh of

# Pickled-Herring, &c.

I. WHither the *Hollanders* Government by *States* is not better than *Monarchy* by ſome Millions, by their uſurpation over *Royal Privileges and Properties* ?

II. Whether *Lucian* did well to make *Hell* govern'd by *States* ?

III. Whether the *States of Holland* ( who deny *Kingſhip* to be *Jure Divino* ) may not lawfully affirm there are *no Devils* ; ſince Scripture commands them *to deny themſelves* ?

IV. Whether their *Land* may not be compared to the *Ingredients* of a *Black-pudding* ; ſince their *patches* of ground in the water, ſeem like the *knobs* of *Fat*, or *Oatmeal* not well *ſtirr'd* together in the *Blood* ?

V. Whether we may not judge them cruel and mercileſs to all who have dealing with them, ſince they are ſo to themſelves ; for rather than want *Fuel*, they will fire the very *foundation* of their being, the *Earth* ?

VI. Whether we may not call *Holland* a *Green-Cheeſe in pickle*, by reaſon of its watry ſituation : And whether lately thouſands of its Inhabitants were not ſouc'd by the *Engliſh*, to make them bear ſome analogy to their Country?

VII. Whether they have not a ſhorter cut to *Hell* than the people of other Kingdoms and Nations ; ſince their *Country* is ſo *low* ?

VIII. Whether it may not be called *Hell*, since all *Erronious Tenents*, with the Authors of strange and unheard of *Villanies* flock thither, as to their proper *Centre* ?

IX. Whether *England* be not *Sampson*; since it hath torn the *Dutch-Lyon's Jaws* asunder?

X. Whether any now know what their *Hoghen Moghenships* are *doing*; or whether they know now what to *doe*.

XI. Whether if a Malefactor were condemn'd to be hang'd, a man could find any other *Tree* for that purpose than a *Willow*, which makes them pilfare Timber elsewhere for Shipping?

XII. Whether a *Dutchman* can break his *Neck* by *leaping* out of his own *Window*, since he is not like to meet with *ground*, till he sink to the *bottome* of a *River*, or the *Sea*; for their Houses stand like *Prizes*, in Moat-houses over the water ?

XIII. Whether Dr. *Lamb* living there might have feared that *Death* by *Stoning* ( which he receiv'd at *London* ] there being so few stones, that the *living ones* are as plentifull, except what are imployed to the Paving of Streets : wherefore it is called the *Buttock* of the *World*, since it is full of *Veins* and *Blood* ; VVater ) but no *Bones* hardly in it ( Stones ) ?

XIV. VVhether *Holland* be not a meer *Paradox*; since its Inhabitants *fish* in the *Water* for *Fire*, and having taken thereof, spread it on the Land; which then appears to the beholders imagination, a *Green-Cheese* over-spread with *black-soap*. Their *Horses* are *Wood*, which carry the *Bridle* in their *Posteriours*, and their *Bellies* contain their *Burdens*, and the *Wind* is the *Spur* that *pricks* them on ?

XV. VVhether if *Mount Atna* or *Vesuvius* be *Hells fore-gate*, *Holland* is not the *Postern*.

XVI. VVhether that Text ( *They are all become abominable, there is none that doth good, no not one* ) doth concern the *Hollander* ?

XVII. VVhether to shake off *Allegiance* ( as they did from their *lawfull Soveraign* the King of *Spain* ) for *Christian-liberty*, was not *Don Quixots* Argument to turn loose the *Gally-Slaves*, because *God and Nature had made them free* ?

XVIII. VVhether the *United Provinces* ( dis-united by water ) may not be ranked with *Magallans Insula Latronum*, or Island of Thieves, who stole his Cock-boat.

XIX. VVhether the water they use be not very *Cordial*, since it is *Aqua Cœlestis*, *distill'd* from the *Clouds* : However *I* am sure it is *Aqua fortis*, or *fortitia*, Strong-water *I* mean; for using it with one hand, you must hold your Nose with the other?

XX.

XX. VVhether they believe the *world* will be *burned* (as ſome of them were lately at Sea) ſince they make it appear by dayly experiment, that its *matter* is *combuſtible*.

XXI. VVhether the *Dutch Sea Captains* have not lately found out the *art* of *flying*, without other *wings*, (then what their fears procured them, their Sails) and that it is fit they which come after ſhould underſtand this old invention, revived to prevent what danger might enſue for want of knowledge thereof?

XXII. VVhether it be not requiſite the States ſhould canonize thoſe for Saints that dye in their Service, who ſince there are but two VVorlds, ought at leaſt to be honoured in one?

XXIII. VVhether the *Wiſemen of Gotham* would not have been horribly puzzled to have found out in *Holland* an Hedge for their Cuckow?

XXIV. VVhether Eſcutcheons are not in *Holland* more plentifull then the Gentry, ſince there every man is his own Herald; never fearing to have a Coat, if he hath ſo much wit to contrive one?

XXV. VVhether they regard not their Houſes, and Utenſils therein contained, more then themſelves; for though they neglect their own formleſſe unlickt Cub-Ships, yet to be ſure the other ſhall not want any thing of their native beauty: Hence may be ſaid they keep their Houſes cleaner then their Bodies, and their Bodies then their ſouls?

XXVI. VVhether at any time they are ſo nice-conſcienc'd, as not to turn Religion out of doors to let in Policy? and whether the moſt boriſh among them, if he gets wealth, may not quickly be made a Statesman?

XXVII. VVhether this may not be a real truth, that their Country is the God they adore, War their Heaven, Peace their Hell; and that they love not any but for Intereſt; but the King of *Spain* they hate worſe then the Devil?

XXVIII. VVhether a man may not ſooner convert a *Jew*, then perſwade a *Dutch-man* contrary to his humour; For Cuſtome is his Law, and his Will is Reaſon?

XXIX. VVhether in the late expedition at Sea, they truſted not more to their Yard armes, then their own armes, to ſecure themſelves from that miſchief would have (juſtly) fallen on them?

XXX. VVhether he may be now ſaid to be a man of Spirit, ſince that failing him he loſt his courage; neither hath he ſeldome any but what he borroweth from Brandy?

XXXI. VVhether Pickled Herring, Butter, Onions, and *Holland* Cheeſe, be not the ingredients which make an ordinary *Dutch-man*; which the heat of the Sun under the Equinoctial in a Voyage to the *Indies* conſolidates?

XXXII. VVhether his Body, Hands and Face are made of the ſame moſe or compoſition; for his Body when naked ſeemeth a Chriſtian-*European*, but the reſt Helliſh-*Ægyptian*?

XXXIII. VVhether they were not bread before manners were in faſhion, ſince they hold civility and courteſie a late uſeleſſe invention, and good for nothing but to ſteal away mens hearts from their worldly affaires? Surely they would make good Juſtices of the Peace, not ſo much for the ſlenderneſſe of their wit, but becauſe they neither reſpect perſons nor apparel.

XXXIV. VVhether the love of gain, upon what diſhoneſt ground ſoever, be not as natural to them as water to a Gooſe, or carrion to a Kite?

XXXV. VVhether it would not puzzle a Phyloſopher to define a *Dutchman*, whether fiſh or fleſh; ſince he draweth his food and breath as much or more from the water then from the land; however foul I am ſure he is.

XXXVI. VVhether *Dutch-men* would wonder to ſee Iron float, ſince every thing is ſo made to ſwim among them?

XXXVII. VVhether they would not have forborn to uſe their virulent expreſſions againſt the King of *Spain*, had they not been formerly his Subjects; neither would they have dared to contend with the King of *England*, had not they wrong'd his Sacred Majeſtie and People ſo much, they knew not how to render him ſatisfaction equivalent.

XXXVIII. VVhether *Myn.* here will not venture the daubing of his fac'd Cloak, by carrying home three pennyworth of Pickled Herring when he meets with them in his walk, rather then go without them?

XXXIX. VVhether when his belly is full, he beareth the reſemblance of a full grown Oyſter boyled?

XL. VVhether they will not tolerate any thing rather than hinder Traffick; and will not ſtick to entertain the Devil (ſhould they know him ſo) and trade with him, ſhould the Fiend aſſume the habit of a Burgo-maſter, and ſhew them Merchandize.

XLI. VVhether you may not be what Devil you will at *Amſterdam*, provided you puſh not the State with your horns?

XLII. VVhether if any one hath loſt his Religion, he may not there find it again, it being an Univerſity of all ſorts of Opinions, which grow there like ſtocks in a Nurſery, without either order or pruning.

XLIII. VVhether by this their boundleſſe toleration, they place not their Commonwealth in a higher eſteem than Heaven it ſelf, ſince they had rather offend God then croſſe their Republick.

XLIV. VVhether the Father and the Son were not created together, ſince obſervation tells us, there is not to be found among them any demonſtration of Duty or Authority to diſtinguiſh them?

XLV. VVhether their women would not have indifferent good faces, did they not marre them in making.

XLVI. VVhether a *Dutch* Saylor is not in continual danger of having his leggs ſwallowed up, by reaſon of the wide gaping and yawning of his breeches at knees?

XLVII. VVhether a *Dutch-woman* may not be compar'd to a Monkey chain'd by the middle, for ſhe had rather want food, then want lincks to hang her keys in?

XLVIII. VVhether a *Dutch-man* be longer eating his dinner, then an *Engliſh-man* preparing it?

XLIX. VVhether the *Engliſh* have not the better over the *Dutch* in drinking, (as well as in other things) having loſt it long ſince by prating too much over their cups.

L. Whether we mortals may not reckon the Hollander in the Maſſacre at *Amboyna* amongſt the Gods, ſince they did there put off all humanity?

LI. Whether *Rudis indigeſtaque Moles*, was not a ſaying expreſt by *Ovid*, relating to the Hollander?

LII. VVhether it had not been much ſafer for the Hollander to have made uſe of their own ſails for fewel, rather than to have fell foul on our Coleſhips? This I can prove by many *Chaldrons* of Reaſons drawn from theirs and our experience?

LIII. VVhether it is not fitting that the States ſhould now make an Act, wherein it ſhould be lawfull (as it is thought by ſome needfull) for the widdows and Orphans of the deceaſed in the late expedition, to make away with themſelves by hanging in the Air, (ſince their Husbands were deſtroy'd by two other Elements Fire and VVater) leſt they joyning iſſue with ſome male-content perſons, it ſhould cauſe an alteration in their Government, and verefie the ſaying, *The mighty ſhall be brought low*?

LIV. VVhether the Commonwealth of *Holland* hath any other mark of Chriſtianity than the grand proſecution of its intereſt, which is *to make their calling and election Sure*?

LV. VVhether the common Proverb, *That bought wit is beſt*, may not now be juſtly acknowledged by the Hollanders with a ſad *Probatum eſt*?

LVI. VVhether it may not be ſaid (when the Dutch Fleet ſet ſail to Proſecute injuſtice (it being then a hot ſeaſon after their cold VVinter) *That they went out of Gods bleſſing into the warm Sun*?

LVII. VVhether old *Van Trump* by carrying a Broom in his main-top, did ſignifie that he would be the Scavenger of the Britiſh Seas, or that he would have had the then Commonwealths Cobler to have furniſhed with old Shooes, or old Boots? (will you buy any brooms.)

LVIII. VVhether *Holland* Cheese will not sweat coming on our Coast for dar oot our great Guns; or whether it would not dissolve or melt away rather before it comes by the heat of their own Fire-ships?

LX. VVhether they look not on this as the Essence of their hodge-podge Religion? That the power of the Sword belongeth to him that can lay hold on the Hilt.

LX. VVhether *Opdam* hath not shewn us, that the speediest way of sayling to the Antipodes, is in a Dutch Bottom?

LXI. VVhether if the Dutch dare play out their game at Raff, and that they will once more Shuffle, it is reasonable for us to Cut?

LXII. VVhether Captain *Smith* for sinking one of the Dutch Admirals, may not truly as well as Houourably be said, *To have hit the right nail on the head?*

LXIII. VVhether he that can say no more at present, hath not a sufficient excuse to hold his tongue.

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# Finis.

A New D

STATE

OF

King

CRUE

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Discovery of wi

to Arrive at their la

By WILLIAM de BR

Britaine K

Et genus humanum & Mortalia temnitis arma,
At ſperate Deos. *Virg.*

LONDON: Printed for *Jonathan Edwin*, at the Three Roſes in *Ludgate-ſtreet*. MDCLXXII.

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To His

# Royal Highneſs

THE

# Duke of YORK.

SIR,

*COuld I but uſe my Pen, as You Your Sword,*
*I'd Write in Blood, and kill at every Word:*
*The* Hogans *then my Muſe's Pow'r ſhould feel,*
*And find my Verſe as fatal as Your Steel.*
*But ſure,* Great Prince, *none can preſume to Write*
*With ſuch Succeſs as You know how to Fight:*

To His Royal Highneſs the Duke of *York*.

*Who carry in Your Looks th' Events of War,*
*Deſign'd like* Cæſar *for a Conquerour.*
*The World of Your Atchievements is afraid,*
*While* Neptune's *Watry Kingdoms You Invade;*
*And that much-courted* Miſtreſs *th'* Ocean *now*
*Not by th'* Venetian-Duke *Eſpous'd, but You.*

*And now,* Great Prince, *may You Victorious be,*
*Your Fame and Arms o'er-ſpreading Land and Sea:*
*May You our haughty Neighbours overcome,*
*And bring Rich Spoils, and Peaceful Laurels Home;*
*Whilſt They, Their Ruine or Your Pardon meet,*
*Sink by Your Side, or fall before Your Feet.*

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THE

THE

# Dutch Usurpation.

THE Dominion of the Belgick Provinces being devolv'd to *Philip* the second King of *Spain*, who designing to Himself the Western Monarchy, and (the best medium to that end) was to reduce those Provinces to a Kingdom. But they being fortified with great priviledges, and many of them inconsistent with Monarchy; 'twas adjudg'd by sober persons, 'twould prove a work of great difficulty, and that He would never effect that he aim'd at. Besides, the reformation of Religion, which then began to grow to some strength, mov'd the King to reduce them back to the Church of *Rome*, by the power and terrour of the Inquisition: Which when the people violently oppos'd, the King then resolv'd to bring them by *Spanish* Rhetorick (that

*The Belgick Provinces.*

is by Sword and Cannon) to obedience. To that end King *Philip* sends the Duke of *Alva*, (an old and expert Captain) with a puissant Army to be his Vice-Roy amongst them. No sooner was he settled in his new Government, but he establish'd the *Bloet-rod*, as they term it, a Council of Bloud, made up most of *Spaniards*.

*Duke Alva is sent into the Belgick Provinces.*

*The Bloet-rod settled in the Provinces.*

*Anno* 1567. He took off the Heads of the Counts of *Horn*, *Egmont*, and of divers other persons of quality, Confiscations effected, and Taxes impos'd upon the people to support them. The Political Government of the Countrey in many things altered, and the people spoyl'd not of their privileges only, but of their liberties. Amongst the reform'd he brought in the Inquisition, and therein behav'd himself very tyrannically. This powred Oyl on the fire, formerly kindled, and put all into a combustion; about five thousand Families quitted their Countrey, some flying into *Germany*, others into *France*, and most into *England*, where they were received with all kindness and civility; Churches were appointed them, (they being of the reform'd Religion) and many Noble and great priviledges were bestowed upon them.

*The Government of the Provinces altered.*

*Five thousand Families leave the Provinces.*

During those Troubles the Prince of *Orange* and Count *Lodowick*, his Brother, were very active, and gave Duke *Alva* imployment

All *Holland* (except *Amsterdam*) follow'd the Fortune and side of the Prince, together with all the Towns of *Zealand*, except *Middle-burg*.

Holland *and* Zealand *for the Prince of* Orange.

*Anno* 1573. Duke *Alva* was recall'd, afterwards *Don Lewis* of *Requisens* was appointed Governour. After him, the Prince of *Parma*, who brought the *Hollander* into worse case then ever.

Yet *Anno* 1581. they declare that *Philip* of *Spain* was fallen from His Government, they renounce and abjure Him for their Sovereign, they break his Seals, change the Oath of Allegiance, and took a new Oath of the people, never to return to the *Spanish* Obedience.

*They declare* Philip *of* Spain *to be fallen from his Government.*

This

This done, the States (for ſo they call'd themſelves ever after) choſe *Francis* Duke of *Anjou*, to be their Prince; during whoſe unfortunate Government, the Duke of *Parma* prevailed in all places, eſpecially after the death of *William* Prince of *Orange*, who was traiterouſly ſlain *Anno* 1584.

*The Duke of* Parma *prevails much.*

Now were the *Hollanders* truely miſerable, deſperate of pardon from their inraged Prince, and having no perſon of courage to head them, none of power to protect them, but ſuch as were likely to regard their own profit, more than their Intereſt. *England* was the only Sanctuary they had now left, to which they ſue, offering the Queen the Soveraignty of their Provinces. But that Heroick Queen not intending to Her ſelf any thing, ſaving the honour of relieving Her diſtreſſed Neighbours, *Anno* 1585. took them into her protection, and concluded (amongſt others) of theſe Articles.

*Queen* Elizabeth *takes the* Hollanders *into her protection.*

That the Queen ſhould ſend them five thouſand Foot, and a thouſand Horſe into the *Netherlands* to fight for them.

That they ſhould pay Her Ten Pounds *per Cent.* for all ſums of money She ſhould lend them, or diſburſe for them. And Intereſt upon Intereſt.

*Articles concluded between* Queen Elizabeth *and the States.*

And likewiſe five pounds for every *Engliſh* Gentleman, or Officer, which ſhould dye in their ſervice.

All which ſums of money were to be paid unto the Queen at the end of the War.

And that for the reimburſing of the ſaid monies, the *Briel*, *Fluſhing*, and Caſtle of *Ramekins* were to be delivered unto the Queen, as Caution and Pledges.

The Queen, in performance of Her Agreement, ſent them 5000 Foot, 1000 Horſe, Money and a Governour, (The Earl of *Leiceſter*) and had the Cautionary Towns delivered unto Her. The renowned Sir *Philip Sidney* was the firſt Governour of *Fluſhing*, who died in their ſervice.

*Queen* Elizabeth *ſends over to the States* 5000 *Foot and* 1000 *Horſe.*

*Caſimir* alſo, the Elector *Palatines* Son, drew down

to the aſſiſtance of the States an Army of fifteen thouſand Horſe and Foot, at the inſtance, and great charges of the Queen.

When the Earl of *Leiceſter* came to wait upon the Queen, at his going over to be their Governour; ſhe ſtrictly commanded the Earl, that he ſhould have a regard of the Engliſh Souldiers, and that they ſerved God, and demeaned themſelves Religiouſly. Which they did with ſuch exemplary zeal, that a ſober man might have thought, that the United Provinces then ſtood in Chriſtendom. And that pious Queen did therein well, for the Chriſtian Religion was firſt planted in *Holland*, *Zealand*, and *Frieſland* by *Willibroad* an Enſtliſh man, the firſt Biſhop of *Utrecht*; whence by degrees it gain'd on the reſt of the Countries. But ſince (by the ill practices of ſome amongſt them) they are much fallen from the purity of it.

*The Chriſtian Religion was firſt planted in* Holland, Zealand, *and* Frieſland *by an Engliſhman.*

The Queen now reſolveth to ſet all the Royal Signatures of Her Favour upon the United Provinces, and give them the moſt eminent demonſtrations of her Bounty and Kindneſs. The Staple of Engliſh Cloth, that was formerly at *Antwerp*, She ſettled at *Delf*, in great quantities; by reaſon of the great concourſe of people, which that Trade brought with it, the Town became rich, well built, and beautified with ſpacious Streets.

*The Staple of Engliſh Cloth removed to* Delf.

*Fluſhing*, before the *Engliſh* came thither, was a very poor Town, but by the Countenance of the Queen, the *Engliſh* Garriſon there, and the Trade which the *Engliſh* brought thither, it flouriſh'd in a high meaſure, and by their means, ſo did all their great Towns and Cities there.

She incouraged them in their Trades, protected them in their Navigation, gave them Licences to fiſh upon the *Britiſh* Seas, (which before was not permitted unto them) and the *Engliſh* did couragiouſly fight for them (to vindicate their rights) whilſt they were imploy'd in Fiſhing, and in their Manufactures, by which they

*Queen* Elizabeth *gives leave to the Hollanders to fiſh in our Britiſh Seas.*

they increaſed in Wealth. But one infelicity happen'd unto them, that the King of *Denmark*, having taken ſome diſpleaſure againſt them, laid an Imbargo upon ſeven hundred of their Ships, which were paſſing backward and forward upon the *Sound* for Corn, by reaſon whereof the people there, were now more diſtreſſed with fear of a Famine, than with the Sword of the enemy. But the potent Queen preſently gave them relief. For She ſupplied them with great quantities of Corn. And by Her Intereſt (with the diſburſment of ſome monies) the Ships were diſcharg'd, and came home to their ſeveral Ports, in the United Provinces.

*The King of* Denmark *ſeizes* 70 *Ships of the Hollanders.*

Now was the Queen look'd upon as their only Patroneſs, and the *Engliſh*, the beſt ſinews of their Wars, and the Atchievers of the greateſt Exploits amongſt them: Near *Newport* was fought that memorable Battel 'twixt the Arch-Duke *Albert*, and the State. The Victory next under God, was gain'd for the States, by the valour of the *Engliſh*, and the excellent conduct of thoſe Noble and Gallant perſons Sir *Francis* and Sir *Horatio Vere*.

*Now they triumph, giving out their Meddals with this inſcription, What we are, we are by Gods Grace and Queen* Elizabeth.

*Oſtend* not wall'd till the Low-Countrey Wars, and then with a Mud-wall only; and that not finiſh'd till the Arch-Duke ſet down before it. In ſo much as the Arch-Dutcheſs *Iſabella* is ſaid to have ſworn, That She would not ſhift her Smock till the Town was taken, Who, had She kept her raſh Oath, had been very —— For the Town being Garriſon'd by the *Engliſh*, and under Sir *Horatio Vere*, (who was Governour thereof) held out againſt the Arch-Duke a Siege of 3 years, and ſo many months. The *Spaniard* at this Siege loſt one-hundred thouſand men.

Oſtend *defended by the Engliſh* 3 *years,* 3 *months,*

*The Spaniards loſt* 100000 *men before* Oſtend.

*Breda*, a Town well fortified, and the Barony of the Prince of *Orange*, from whom being taken by the *Spaniards* in the beginning of the Wars, 'twas again recover'd by ſeventy valorous *Engliſh* Soldiers; who, hiding themſelves in a Boat cover'd with Turf, were convey'd into

Breda *recovered by the Engliſh.*

the Caſtle, which they eaſily maſter'd, and made th Prince Lord again of all his Dominions and Territorees there. The ſpeech of one of the Souldiers there, upon that occaſion, deſerves never to be forgotton; who fearing leſt by his violent noiſe in coughing (though he did repreſs it) he ſhould, together with himſelf, betray his Companions: Kill me (ſaith he) fellow-ſouldiers, leſt we be kill'd.

The particular Actions, Gallantry, and noble Attempts of the *Engliſh* here, would deſerve a juſt volume of themſelves. By their valour and courage moſt of the *Spaniſh* Souldiers were ſo waſted and conſumed, that the King of *Spain* was enforc'd (to give a ſtop to their Conqueſts) to ſend fifty thouſand veteran Souldiers out of *Spain* and *Italy* into *Flanders*. And the Queen did ſupply the States with anſwerable numbers of men and money, inſomuch as She maintain'd for them forty thouſand Horſe and Foot in their ſervice.

*Queen* Elizabeth *maintained* 10000 *horſe and foot for the Hollanders.*

She made many Naval expeditions into *America*, and there did much infeſt the King of *Spain*, ſinking his Ships, burning his Towns, battering down his Forts and Caſtles, interrupting all his Trade and Commerce there; and all this to bring that King to Reaſon and Juſtice, as to the United Provinces.

*Q.* Eliz. *infeſts the King of* Spain *in* America.

The King of *Spain* hereat exceedingly incens'd, *Anno* 1588. ſends his Invincible *Armado* againſt *England*, raiſed a Rebellion in *Ireland* againſt the Queen, ſent many *Spaniſh* Souldiers to *Kingſale* to the aſſiſtance of the Rebels there, committed many depredations in *Cornwall* here; many ſanguinary and deſperate perſons were incourag'd to poiſon, murder and deſtroy Her, who made many attempts upon Her Royal perſon. So this excellent Queen being incircl'd with ſo many infelicities and troubles, and beſet with ſo many calamities, and being wearied with the Wars in the *Netherlands* (becauſe they did ſo exhauſt Her Treaſure, and deſtroy Her brave people) and finding the States to grow inſolent, and to perform

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no Agreements, and withall, obſerving their Subjects to grow rich by the War, (of which they made a Trade and Merchandiſe) and Her Kingdoms to be thereby impoveriſh'd; She reſolved to make peace with the *Spaniard*, (being aſſured the *Belgick* War was never to be ended by conqueſt) and to that purpoſe She ſignified Her Royal pleaſure unto the States; But finding her Majeſty to be in earneſt, (as She had great reaſon for't) they were much perplex'd. For if She had deſerted them, they had loſt their chief and only ſupport; they ſent over their Ambaſſadors into *England*, and in the moſt humble manner that could be, petitioned Her Majeſty, that She would not caſt off the Cauſe of God and man, and leave ſixty Towns, with a poor diſtreſſed people, a prey to the malice and avarice of the barbarous *Spaniard*. But She earneſtly preſs'd them for the payment of Her money, adding withall threats, That, if She was not obey'd therein, She would take ſuch courſes, as Her lenity was not us'd to be acquainted with: and ſo diſmiſſed them.

*The diſtreſſed States petition the Queen not to deſert them.*

Hereat the States were much diſturbed; and thereupon, *Anno* 1598. the diſtreſſed States ſent the Lord *Warmond*, and others their humble ſuppliants unto Her Majeſty, who in the loweſt poſture of humility, did acknowledg themſelves oblig'd unto Her for infinite benefits.

*The States ſend Ambaſſadors to Q. Elizabeth.*

But herein Her Majeſty excelled the glory of Her Anceſtors, that by how much She exceeded others in power, by ſo much Her Majeſty excelled them in acts of Mercy and Piety, by whoſe means and aid, the *French* have gain'd many Victories, and they more.

As for the Money which the States owed Her, they beſeeched Her Majeſty to conſider the dangers dayly growing upon them, their poverty and diſability to pay, and that by original Agreement with Her Majeſty, no monies were to be paid, till the Wars were ended.

The Queen underſtanding their unjuſt practices and ill dealings with Her, told them that She had been often deluded by their deceitful ſupplications, ungrateful actions,

*The Queen diſpleaſed with the States.*

Un-

unhandsom cavillings, and pretences of poverty (when their rich Cities confuted them) and She hoped God would not suffer Her to be a pattern to other Princes, to help such a people, who bear no reverence to Superiours, nor take care for the advantage, reputation, or safety of any but themselves. And required them to pay Her the money they owed Her. And advised them for the future, that they should not seek a remedy against growing danger, from old Covenants by compulsion, but rather merit new favours by their gratitude and thanks for the former.

*Alliance with Q. Elizabeth was of great advantage to the States.*

At these expressions of Her Majesty, the poor distressed States thought themselves confounded, both for their former and future charges: Yet considering the name of Alliance with *England*, was of exceeding advantage unto them, they resolv'd to submit (as they could not avoid it) to such Conditions as Her Majesty should lay upon them.

*Q. Elizabeth counselled and inclined the States to peace.*

The Queen again press'd them for the payment of Her Mony, and for Peace; but She could not incline them to peace (being never disposed to pay Her Money which must be at the end of the War.) Yet in complyance with Her Majesty the Account was stated. And the principal Debt (besides Interest upon Interest, and the loss of Her Subjects in their Wars) did amount unto 8000000 Crowns: and they did agree to pay Her Majesty, during the War, 100000 Pounds yearly, and the remainder when peace was concluded and the Cautionary Towns surrendred; and that in the mean time 1500 *English* Souldiers should remain in the Garrisons, and that the States should pay them.

*The States owed Q. Eliz. two millions of pounds.*

The Queen having Her Debts stated, began to be more friendly to them, and wished them to follow their Trade of fishing upon the *British* Seas; (which She gave them leave to do) that they might be the better able to pay Her, and support the charges of their War, which they did effectually.

But I could never find that they ever paid unto Her Majesty any of the money they owed Her. For, it's not

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to be conceived, that thoſe perſons whom Her Majeſty, for ſo many years, could not, bring to an account, would at the laſt, pay Her any thing.

But Her Majeſty being grown into years, and thoſe vigorous and great parts She formerly had ſomewhat declining; they (that the Queen might not exact of them the payment of Her mony, according to Agreement with Her) continually by Emiſſaries (which they had about Her Majeſty, and their Penſioners) did infuſe Jealouſies into Her Head; and what Plots, and ſecret deſigns the King of *Spain* had againſt Her Majeſty, and her Dominions; which did ſo amuſe Her, that I do not obſerve Her Majeſty ever preſſed them after, for the payment of any mony. But from time to time She ſupplied them with men as they deſired; and ever made good to them her own Motto, *Semper eadem.*

*Q* Eliz. *died* April. 2. 1603. *She loſt* 100000 *men in the States ſervice.*

And as Her aſſiſtance to them was the firſt, ſo it continued to the laſt, that is, until *April* 3. 1603. at which time She died, having loſt not fewer than 100000 of Her Subjects in that War: And having ſpent in Naval expedition, for their ſakes, againſt the King of *Spain*, in *America*, and elſewhere, above a Million of mony, beſides the Debt which the States owed Her.

*King* James *proclaimed* King.

King *James* being proclaimed King, and the undoubted Heir and Succeſſor to the Queen. The States ſent their Ambaſſadors to the King, and after ſome Complements to Him, they ſignifie to his Majeſty, That they had loſt Her, whoſe Goodneſs and Benefits to them were not to be expreſſed in words. But they had found His Majeſty, as the Heir of her Kingdom, ſo the Imitator of Her Vertues, and perſwaded Him to a War with *Spain*, and begged ſupplies of Him.

*King* James *refuſes to aſſiſt the States.*

But King *James* being a Wiſe Prince, (and not to be taken with their arts and cunning) told them, that He had no difference with the Spaniard, and alſo, that King *Philip* had voluntarily offer'd Him his aſſiſtance, if any diſpute ſhould have ariſen concerning His Kingdoms. And for

the Arch-Duke, he made War with the Queen, not with the Realm.

*A League concluded between King James and the Spaniard.*

This highly discompos'd the States; But King *James* treated with the *Spaniards*, and concluded a League with them. And the States, such kindness had his Majesty for them, were offered by King *James* to be comprehended in the Articles of the Treaty, but they refus'd; yet by the mediation of King *James* a Peace was propounded to the States from the King of *Spain*. But they signified unto His Majesty, that they would not treat with the King of *Spain* till they were declared by him Free States, abstracted from all right and title unto any of the Provinces or Places by them possessed, which He might pretend unto. All which, by the great endeavours of King *James*, were granted unto them by the King of *Spain*. And so *Anno* 1609. a Peace was concluded between the King of *Spain* and them.

*The States refuse to treat with the Spaniard, except they be declared by him Free-States.*

*Peace concluded between the Spaniard and the States.*

*The Provinces of the States.*

The Provinces in the possession of the States, at the time of the conclusion of the Peace; were *Holland*, *Zealand*, *West-Friesland*, *Overyssel*, *Groningland*, *Utrecht*, *Zutphen*, three parts of *Gelderland*; and some Frontier Towns and Places of Contribution in *Brabant* and *Flanders*.

All which Provinces, with their Frontier Towns in *Brabant* and *Flanders* are not so big as *York shire*, one of our Counties in *England*. And there may be a greater number of stout and gallant men for War raised out of that one County, than they can raise out of all their Provinces.

Being now declared Free States, and Peace concluded with the King of *Spain*; yet for their own security, they were enforced to maintain an Army in their Country. The charge whereof could not amount to less than six hundred thousand Pounds yearly, besides other vast expences, as the preservation of their Dikes, *&c.*

*The Charges the States are at to maintain their Countries*

All, or the greatest part thereof, they raised out of the Fishing of the *British* Seas, on the people by Excise, and Taxes upon every Acre of Ground. Which is such, that the whole Country returns into their hands every third year, and by other Impositions, so insupportable in themselves

ſelves (and amongſt men which would be thought to live in a Free State) that ſhould any Prince in Chriſtendom lay but half ſo much upon their Subjects, it would occaſion a Revolt.

So that, whereas one of the firſt cauſes of their falling off from their Prince, was to free themſelves from Taxes and Impoſitions, illegally (as they ſaid) enforced upon them, they have drawn upon themſelves more arbitrary, and illegal Payments, then any Nation in the world. So true it is, that a Rebellion once ſuppreſſed, the King is more King, and the Subjects more ſubject. But if it thrives, and happens to be *proſperum ſcelus*, and to advance it ſelf to a Free State (as they call it) Tyranny and Oppreſſion, are the two Pillars which muſt ſupport it.

The States being now abſolute, and having obtain'd a Sovereign Dominion, only the Cautionary Towns ſtuck in their Stomachs, and might prove a curb to them: But being unwilling to move the King concerning them, by reaſon of the great ſums of mony they then owed Him (and being not well able to pay Him) they would, by ſame projection or other endeavour to gain them; Thereupon they reſolv'd, as the beſt expedient, not to pay the *Engliſh* Souldiers in the Cautionary Towns, who being thereby put to diſtreſs and want, would be enforced to borrow ſome monies (for their preſent ſupport) of the States of *Zealand*, which they did; who therewith adviſed the States General, at the *Hague*, they conſulting with Sir *Ralph Winwood*, Ambaſſador for his Majeſty there, (who was a favourable Inſtrument to them in this Buſineſs) ſent Inſtructions to the Lord *Caron*, then their Ambaſſador in *England*, to acquaint the Lord Treaſurer herewith. And in caſe of no ſatisfaction from him, to make his Addreſſes to the King, which he did. His Majeſty being much incenſed that His Subjects and Souldiers ſhould ſtarve for want of their Pay in Foreign Parts, ſent for the Lord Treaſurer, who drawing his Majeſty aſide, and telling Him how empty his Exchequer was, His Majeſty told their

*The projection of the States to get the Cautionary Towns from King James.*

Ambaſſador, that, if his Maſters would pay Him His Mony they owed Him, He would deliver up thoſe Towns.

The next day their Ambaſſador waiting upon the King, to know whether his Majeſty perſiſted in the ſame Reſolution, His Majeſty anſwered, That He knew the States of *Holland* to be His good Friends and Confederates, both in point of Religion and Policy; therefore He apprehended not the leaſt fear of any difference that ſhould fall out between them. In contemplation whereof, if they Would have their Towns again, He would willingly ſurrender them.

*Cautionary Towns delivered to the States.*

The States hereupon made up the mony preſently, and ſent it to the King. And ſo *Anno* 1616. the cautionary Towns were delivered unto them.

The King (ſuch was his Royal Bounty unto them) remitted the Intereſt, and five pounds for every Gentleman, and Officer, which died in their ſervice.

*The Treaſure and men which the Spaniard ſpent in the Wars.*

Which Sum certainly would have amounted unto treble the Principal. The King of *Spain* having ſpent in thoſe Wars one hundred and fifty millions of Crowns, and waſted 600000 men; and was plung'd ſo deeply in debt (notwithſtanding his Mines of *Mexico* and *Peru*) that having taken up mony in all the chief Banks of Chriſtendom, He was forced to publiſh a *Diploma*, wherein he diſpens'd with himſelf (as the *Holland* Stories report) from payment, alledging that he had imployed theſe Monies for the publick Peace of Chriſtendom.

What Sum the King received of them, it is not comporting with the duty of a Subject to queſtion, or diſpute; Yet we may obſerve the treacherous and unhandſom practice of the States, to ſuggeſt ſuch notorious untruths to His Majeſty, when they themſelves, by Agreement with the Queen, were to pay the Souldiers in thoſe Towns; however they had been ungrateful, to ſuffer ſuch perſons (who had ſo highly merited of them) to want; when the States were built by the Engliſh valour, and by their blood united and cemented.

But

But having gotten the poſſeſſion of their Towns, (which were the Lock and Key of their Provinces) and having compounded for thoſe exceeding great ſums of mony which they owed his Majeſty, (which ſober men did think they never had been able to pay if rightly ſtated) they preſently from *Poor diſtreſſed People*, are ſwell'd up to thoſe ſpreading and magnificent Titles of *High and Mighty States*. Inſolent Boggs! They might rather have ſaid unto Sedition, *Thou art my Father*; and unto Rebellion, *Thou art my Mother*.

*The States declare themſelves High & Mighty States.*

Now they make their Naval Expeditions into *America*, and other parts of the world: And by the leave and licence of King *James*, paying ſome ſmall Tribute, they fall to their Fiſhing Trade upon the Britiſh Seas. Wherein they did ſo exceedingly thrive, that towards the latter end of King *James* His Reign, they imployed yearly eight thouſand four hundred Veſſels of all ſorts for their Trade of Fiſhing upon the Britiſh Seas, (which number ſince is vaſtly increaſed) whereby they have a Seminary of Mariners ready for publick Service or Navigation. And upon computation it appeared, that they made in one year of the Herrings only, caught upon the Britiſh Seas, the ſum of five millions of our pounds; (the Cuſtom and Tenth of Fiſh advancing to the Publick Treaſury no leſs than eight hundred thouſand pounds) beſides the Cod, Ling, Hakes, Pilchard, and other Fiſh, computed to amount unto near three millions more.

*The States paying a Tribute.*

*Fiſh in the Britiſh Seas.*

*The number of ſhips the States imploy in the Fiſhing Trade.*

*The riches the States gain by their fiſhing, upon the Britiſh Seas.*

By reaſon of thoſe multitude of Ships and Mariners, they have extended their Trade to all parts of the world, exporting for the moſt part in all their Voyages, our Herrings and Fiſh: in exchange whereof, they return the ſeveral Commodities of other Countries, and ſell the ſame at their own prices. Great part of their Fiſh they ſell for ready mony, which commonly they export of the fineſt Gold and Silver; and coming home, Re-coin it of a baſer Alloy, under their own Stamp; which advance a great profit to them. The returns which they make for their

Fiſh in other Commodities amounts to a vaſt ſum: And all this Wealth, Riches, and Grandeur, is derived unto them from the Indulgency and Bounty of the Kings of *Great Britain.*

The Hollanders now beginning to be conſiderable in the World, by reaſon of the many Royal Favours wherewith they are inriched by the Crown of *England*: The Engliſh and they having ſeveral Factories and Places in the Iſles of *Molluccaes*, *Banda*, *Amboyna*, and elſewhere in the *Eaſt-Indies*, (the Engliſh being ſome years there ſetled before the Hollanders had made any diſcovery of thoſe Iſlands) *Anno* 1619. there was a Solemn League and Agreement by King *James*, and the States of the United Provinces, in a ſtrict Alliance, and ſocial Confederacy of the Engliſh *Eaſt-India* Company, and that of the United Provinces, for the better advancing and carrying on of the Trade and Commerce in thoſe Iſlands, and elſewhere in the *Eaſt-Indies*.

*A League between King James and the States for advance of Trade in* America.

Here are ſo many marks of Kindneſs, ſuch ample Demonſtrations of Favour, as no People could have greater Obligations (if any Principles of Honour, or Juſtice could oblige them) to make returns of Gratitude, and give the greateſt inſtances of their Sincerity and Faithfulneſs to the Kings of *Great Britain*, and the Engliſh Nation. But with them, *Favours paſt are not accounted; they love no Bounty but what is meerly future.*

At *Amboyna*, (one of the *Scyndæ*, or *Selibe* Iſlands, lying near *Seran*, and hath many leſſer Iſlands depending upon it, it is of the Circuit of 60 Leagues) an Iſland which bears Cloves plentifully, for gathering and buying whereof the Engliſh Company had placed five ſeveral Factories: The head of all at the Town of *Amboyna* (ſo called from the Iſland the chief Town in it) two at *Hitto*, and *Larica*, in the ſame Iſland; and two others at *Latro*, and *Cambello*, in the Iſland of *Seran*. But the Hollanders obſerving the Engliſh to be better beloved by the Natives than themſelves, and that they began highly to improve and

gain

gain by their Trade and Traffick, hating that any ſhould thrive but themſelves, *Anno* 1622. upon pretence of a Plot between the Engliſh and the Japoneſſes to betray their Fortreſs in the Town of *Amboyna*, (which was built at the charge of the Engliſh, and for the ſafety of Trade and Commerce) the Hollanders having about two hundred Souldiers there, (to the end they might ingroſs the whole Trade and Traffick of the ſaid Iſlands to themſelves) moſt treacherouſly murthered, and with Fire and Water tortured the Engliſh there, (far exceeding the Barbarity of all Nations) ſeized upon their Factories and Goods, to the value of four hundred thouſand pounds; All the Engliſh and Japoneſſes which they could meet with, they ſent into their own Iſlands to be their Slaves.

*The Maſſacre of the Engliſh at* Amboyna.

*The States ſeize the Factories of the Engliſh at* Amboyna.

An Act ſo horrid! that the Hollanders are infamous to this very day among the rude and ſavage Indians, for their barbarous Inhumanity executed upon the Engliſh, (the greateſt Patrons, under God, they ever had in the World.) King *James* being made acquainted with this barbarous fact, told the States Ambaſſador that he never read or heard of a more cruel and impious Act. *But I do forgive them* (ſaid the King) *and I hope God will: But my Son's Son will revenge this Blood, and puniſh this horrid Maſſacre.* The King was a wiſe Prince; and believe it, Wiſdom is next door to Propheſie.

*A Propheſie of* King James.

Having thus murthered the Engliſh, (their Inſolency and Ingratitude did not end there, but) they forcibly ſeized upon the Iſlands of *Seran*, *Nero*, *Waire*, *Roſingen*, *Latyo*, *Cambello*, *Nitto*, *Larica*, *Lantare*, the Iſlands of *Poloroone*, near Neighbouring to the *Molluccaes*, *Polaway*, and *Machaſſer* Iſlands of *Banda*: All which Iſlands were formerly ſurrendred by the general conſent and act of the Natives, unto the Engliſh, and under the Sovereignty of the Kings of *England*. They ſeize upon their Factories and Goods there, poſſeſs themſelues of one thouſand eight

*The States ſeize upon all the Iſlands and Plantations of the Engliſh in* America.

eight hundred Engliſh, which they diſpoſed of into their own Iſlands.

By this artifice they gained to themſelves *Amboyna*, *Banda*, the *Molucca* Iſlands, *Ternate*, *Tidor*, *Maner*, *Rochian*, *Machiam*, and *Butono*, with ſome others: In all which, the Engliſh had their Factories and ſome Caſtles, Iſlands productive of Cloves, Nutmegs, Mace, Cinamon, and other rich Commodities; from whence the Perſians, Turks, Chinois, and Africans fetch'd them. But by reaſon the Hollanders were ſuperiour to them in ſtrength, and that horrid act of *Amboyna* had made a ſad impreſſion upon their ſpirits, (expecting the ſame meaſure of cruelty from them, as they of *Amboyna*) were enforced to quit the ſaid Iſlands and Factories.

So that theſe inſolent and ungrateful perſons have gained to themſelves ſolely the Trade of the whole World for Spices.

*The States drain* 400000*l. yearly for Spices, out of the Kings Dominion.*

By the loſs of which Iſlands, there's drain'd yearly by them out of the King of *Englands* Dominions for Spices, four hundred thouſand pounds, beſides the loſs of the Trade in thoſe Iſlands to the Engliſh, (which would have much improved and inlarged it ſelf into other places) cannot amount unto leſs than four millions of pounds ſterling yearly, though formerly ſome inconſiderable quantities of them did grow in *Cupe*, *Duco*, *Montio*, and *Mara*, but of late not any. The advantage hereof cannot amount unto the Hollander leſs than ſeven millions of pounds ſterling yearly: they ſetting what Rates and Prices they pleaſe upon theſe Commodities.

*The riches the States gain'd by ſeiſing of the Engliſh Factories.*

*The ſtock of the Eaſt India Company of* England *loſt.*

By theſe moſt unjuſt practices of the Hollanders, the Stock of the Engliſh Company, which did amount unto about ſixteen hundred thouſand Pounds, was the greateſt part of it loſt.

Poloroon *delivered by the Natives to King* James.

*Poloroone*, by the general and voluntary act of the chief men of the Country, was ſurrendred into the power of King *James*, and the poſſeſſion thereof was given for His Majeſties uſe to Captain *Courtrop*, *Decemb.* 23. *Anno* 1616.

No

No other Nation, at that time, having any Interest in it, or pretenſion to it, being a very rich and plentiful Iſland: from whence the *Engliſh* might have expected great Treaſure and advantages. The *Hollanders*, notwithſtanding their League and Treaty with King *James*, *Anno* 1619. the *Engliſh* being then in poſſeſſion of it, with great force entred the ſaid Iſland, demoliſhed all their Buildings, pull'd up all their Nutmeg-trees, and ſent them into their own Iſlands to be planted, deſtroy'd all their Factories there, and ſeiſed upon all their Goods, and forced all the *Engliſh* from thence, and to diſpeople it, that it might be of no uſe to the *Engliſh* for the future, under colour of a Plot that the *Oran-keys* and Nobles of *Poloroone* had conſpired with the people of *Serau* to maſſacre the *Dutch*, as well at *Poloroone* as *Poloway*: The *Dutch* Governour at *Poloway* ſent command to the *Oran-keys*, that they ſhould come over to him, a Prieſt and ſeventy *Oran-keys* immediately took a Prow, or ſmall veſſel, of their own; and embarked themſelves for *Poloway*. So ſoon as they were arrived, they were carried Priſoners to the Caſtle. Then the Governour with 200 Souldiers went to *Poloroone*, whence he fetch'd the reſt of the *Oran-keys*, and committed them Priſoners to the ſame Caſtle: And preſently were brought to the Torture with fire and water, as they ſerv'd the *Engliſh* at *Amboyna*. Two of them died in their tortures, the reſt, being 162 were all upon their forced Confeſſions condemned and executed. The Prieſt, when he came to the place of Execution, ſpake theſe words, in the *Mallayan* Tongue; All ye, great and ſmall, rich and poor, black and white, look to it; we have committed no fault: And when he would have ſpoken more, he was taken by the head and feet, layd along, and cut in two by the middle. Their Wives, Children, and Slaves, with all their Goods, were ſeiſed by the *Hollanders* and ſent into their other Iſlands.

Poloroon *ſeiſed by the States from the Engliſh.*

*The cruelty of States againſt the Natives in* Polloroon.

And this the *Hollanders* did, becauſe the *Oran keys* had a great love for the *Engliſh*.

Barbarous Miſcreants! was it not enough to exerciſe their

Tyranny upon the *English*, but that they must destroy the poor Natives for their sakes?

*The States design to themselves the sole Trade and Dominion of the East-Indies. And to speak freely, prosperous villanies, are Cardinal Vertues in the States Ethicks.*

So that we may perceive the sole design of the *Hollanders* is, to get the Riches, Trade, and Dominion of the whole Indies into their own power. And therefore they think any *medium* just, subservient to that end.

The *Hollanders* having forcibly taken the Town and Castle of *Mallaca* from the *Portuguez*, suffer no Ships of any King or Prince in *Europe* to pass the *Streights* of *Mallaca*, into the South Seas to *China*, *&c.* upon pain of seisure or confiscation of Men, Ships, and Goods.

*The States suffer no ships to pass the Streights of* Mallaca.

And to that purpose they grant their Commissions to the Captains of their Ships, to bring all Ships that pass the *Streights* of *Mallaca*, (which *Streights* were free for all Ships to pass, till the restraint and Usurpation of the *Hollanders*) into *Mallaca*, or else to sink, or burn by their sides.

This restraint is loss to the *English* three hundred thousand pounds yearly, and advantage to the *Hollanders* five hundred thousand pounds yearly.

*Anno* 1620. *Cabode bon Esperanza* was in the possession of the *English*, and by them taken for the use of King *James*. But since the *English* have been forc'd out by the *Hollander*, where they have a flourishing Plantation.

*Two ships of the English seised and confiscated by the States.*

Thereupon *anno* 1620. they seised upon two *English* Ships, the *Bear*, and the *Star*, in the *Streights* of *Mallaca*, going to *China*, and confiscated Ships and Goods valued at fifteen hundred thousand pounds.

*Bon Esperanza, a ship of the English seized by the States.*

The Ship *Bona-Esperanza*, an *English* Vessel, *anno* 1635. going into *China* by the *Streights* of *Mallaca*, was violently assaulted by three *Dutch* Men of War: the Master and many of his men killed, and brought into *Mallaca*: and there the Ship and Goods were confiscated, valued at one hundred thousand pounds.

*The Dragon and Katherine two English ships seised by the States, and confiscated.*

The *Dragon* and *Katherine*, two *English* Ships of Sir *William Curteen*, valued at three hundred thousand pounds, besides their Commanders, and others, who had very great

Estates

Estates therein, *anno* 1636. were set upon by seven *Dutch* Men of War, as they past the *Streights* of *Mallaca* from *China*, and by them taken. The men tyed back to back, and flung over bord; the Goods being taken out of the said Ships, were seised to the use of the States there; and the Ships sunk, that it might not be known who committed that cruel fact.

*Anno* 1620. *The Factories of the English in* Sumaria *seised by the States*

In *Aru*, and *Manucado* in *Sumatia*, an Oriental Island, the *English* had several Factories there, by the consent of the King and Natives: but by the practise of the *Hollanders anno* 1625. they were all enforced to leave their Factories, and the Places.

*The Factories of the English in* Siain *seised by the States.*

In *Pachane*, the chief City of *Pachane*, one of the Kingdoms of *Siain* in *India*, the *English* had several Factories there, but by the unjust practices of the *Hollanders*, they were compelled to quit the Country, and their Factories, to an unexpressable loss to the *English*. *Pachane* being a great Country for Gold, Silver, Pearls, Precious Stones, and many other rich Commodities.

*The Statts make War against the King of* Bantam, *for his love to the English.*

The *Hollanders anno* 1636. made War against the King of *Bantam*, one of the Kings of *Java major*, for that he had a great kindness for the *English*. And for that he permitted them to have several Factories in *Sunda*, and *Jambe* for Pepper; And by this art would have driven the *English* from thence, and their chief Pepper Trade. And so would have shut them out, both of the *Streights* of *Sunda* and *Mallaca*.

From these men we may learn, That those which study to be great by any means, must by all means forget to be good: they must dismiss that puling thing Conscience; for there is no such Remora to Grandeur, as a coy and squemish Conscience: And it's observ d by a learned Gentleman, had *Alexander* boggled at invading other mens Kingdoms, he had never wept for the scarcity of Worlds.

The oppressions and injuries of these men in *India*, not only to the English, but to the Subjects of many of the Kings and Princes in *Europe*, are not to be expres d (and

indeed they are fitter for our wonder than our words.) It were to be deſired that they would ſet forth a Manifeſto to the world of the particular loſſes they and their Subjects have ſuſtained by the Inſolencies and Uſurpations of theſe men. And then they would be as much ſcorned, by every good man in *Europe*, as they are now hated by the Indians in *America:* For the Indians, though they have no kindneſs for the Spaniard, yet they look upon him as a Gentleman, but the Hollanders they abhor, for their ſordid acts, and unjuſt practiſes.

*The States have the ſole command of the North Seas.*

As they have made themſelves Maſters of the South Seas, ſo having *Anno* 1662. taken *Cochen* from the Portuguez, and other Ports upon the coaſt of *Mallabar*, they have the ſole command upon the North Seas from *Mallabar* to *India*, *Perſia*, *Arabia*, *Red Sea*, *Moſambique*, all along to *Cabo de Bon Eſperanza*, ſo they will in a ſhort time reſtrain all the Kings and Princes in *Europe*, and their Subjects to have a Trade or Commerce in thoſe parts.

*The ſtile of the States in the Indies.*

And whether it may not by the help of a little Logick be concluded out of their ſtile; conſider, The States General of the United Provinces of *Battavia*, *Amboyna*, *Tewan*, &c. Commanders of all the Seas of the world; Protectors of all the Kings and Princes in *Europe*; and Supreme Moderators of all the affairs of Chriſtendom: For ſo they ſtile and write themſelves in the *Eaſt Indies*.

Now they are High and Mighty States indeed: Ambition is never ſo high, but ſhe thinks ſtill to mount; that ſtation which lately ſeem'd the top, is but a ſtep to her now; and what before was great in deſiring, ſeem little, being once in power.

The

# *The Method and Arts which the* States *have uſed in* India *to Inlarge their Dominions, and to exclude others from Trade or Commerce there.*

the method and Arts of ye States to

1. THey are in a perpetual ſtate of Hoſtility, ever Warring upon ſome Prince or other; and thereby gain either Tribute or Dominion.

2. When they have to do with any King or Prince, they order their Affairs ſo, that he muſt perform firſt; and when he hath done, they are States, and ſo are free.

3. They encourage the Natives upon every ſmall occaſion of diſcontent, to Arm againſt their Prince, promiſing them their aſſiſtance, which they exactly perform. When they have Conquered the King, and taken his Caſtles and Ports, (which they firſt ſecure, making themſelves Maſters of the Seas and great Rivers) then they ſubdue the Natives: and ſo Veſt in themſelves Sovereign Dominion, and make both King and Natives their Vaſſals.

4. If the Natives take up Arms againſt their Prince, (as many times they do) then they encourage him againſt his Rebellious Subjects, and give him their aſſiſtance: When the Natives are ſubdued, then they conquer the King himſelf, or elſe demand ſo much for their aſſiſtance, that he is not able to pay; and ſo he muſt ſubmit himſelf and his Dominions to their boundleſs ambition.

5. If

5. If there be any Wars between Prince and Prince, they will be ſure to fall in with one of them, and give him their Aid, and ſo make War in the other Princes Dominion. When that Prince is ſubdued, and themſelves ſetled in his Dominions, then they reduce the other Prince to their Obedience, having ſome Caſtles or Ports in his Dominions, which do command the whole.

6. If they have any places of concern, and the Subjects of any Prince in *Europe* have any Factories there, (which they cannot fairly diſmiſs) then they lay ſuch great Taxes and Impoſitions upon the Natives, that they are enforced to Arms. When they are ſubdued, then they charge the Subjects of that Prince as Conſpirators and Abetters of the Natives; and ſo ſeize upon all their Goods, Factories, and enforce them to quit the Country, or elſe ſend them into ſome of their Iſlands to be Slaves.

7. If any Prince in *Europe* make any Treaty or League with the States, concerning any Affairs in *India*, they ſend to the States of *Battavia* private Inſtructions, contrary to their publick Agreement: So that all Treaties and Leagues, as to the Affairs of *India*, are ineffectual.

8. Where they have footing in any Iſland or Dominion, they claim by Conqueſt, and ſo lay what Taxes they pleaſe upon the Natives. And being in by Conqueſt, they are Proprietaries, and ſo exclude the Subjects of any King or Prince from Trade there.

9. If the Subjects of any King or Prince in *Europe* have Factories in the Dominions of any Prince there, (if they begin to be conſiderable) they take ſome occaſion to War againſt that Prince; and upon Treaty, charge thoſe Subjects to be the cauſe of the War: ſo if the Prince will have Peace, he muſt ſeize their Factories and Goods, and baniſh them his Country.

10. They pretend great kindneſs to their Neighbour Princes, and enter into a League Offenſive and Defenſive with them: And by that means get the favour of thoſe Princes to have ſome Ports, or ſtrong Caſtles for Defence of

of their Trade, as they pretend in their Territories. When that is done, they either make Wars themselves, (and so those Princes must aid them) or else perswade the Princes his Allies to make War upon another Prince; which they do, and so fight one Prince against another; and when they are sufficiently enweakened, they Conquer them all.

11. If they have any difference with any potent King or Prince, they get time; if it be for their advantage, they give good words, but part with no money. That done, they make their Addresses to some Favorite of that Prince, (which do all in the Court of the *Indian* Kings,) and so with small charges they effect great matters.

By these steps they have clim'd up to those immense Pyramids of Dominion and Power in the *Indies*, that they are become formidable to the greatest Emperours and Princes there: ever making good in their practice that Lemma of *Loyola*, (the Apostle of their State) *Cavete vobis Principes.* They have excluded the Subjects of all Kings and Princes in *Europe* from Traffick and Commerce, where they have any Territories or Power. And by reason of the Dominion they have in the South Seas, and the Conquests and Fortifications they make upon the North Seas, all their Subjects will finally be debarred from any Traffick or Trade there.

*The States exclude the Subjects of the Princes of* Europe *to Trade in the* East-Indies.

Of what dangerous consequence this will prove, it's very well beseeming the Wisdom of the greatest Kings and Princes to consider. For they are a Generation which are born to be the Plague, Disquiet, and Scourge of *Europe*; and they gladly sacrifice the Publick Peace of *Christendom* to their own private Interest.

If we consider how many brave and large Dominions in the *East-Indies*, were under the Sovereignty of the Kings of *Great Britain*, what flourishing Factories their Subjects had there, how great Kings they might have been in Treasure and Dominion, how rich their Subjects, it cannot

*The great losses which the King of* England *and his Subjects have sustained in* India *by the Usurpation of the States.*

not but discompose an English Spirit, that his King should be ousted of all those Dominions, and his Subjects devested of their Riches and Hopes, by a People who had nothing but the Favour of the King of *Great Britain* to support them, nor no Fortress to defend them but that of *Amboyna*, and that built by the Monies of the English Company.

Well, we may see what Treachery and Perfidiousness can do, being accompanied with Ambition and Industry: But they will ere long find, that slippery are those Foundations of Might and Greatness, which are not laid upon the Principles of Justice, and regulated by the Maxims of Christian Piety.

*The Insolencies of the States to the King of* England *in* Europe.

And as *America* was the Theatre where they Acted these Tragedies, and unparallel'd Insolencies: so they have not spared to manifest their Ingratitude, Affronts, and highest Injuries against the Kings of *Great Britain*, and the English Nation here in *Europe*.

*Anno* 1639. when his Catholick Majesty sent his *Armado* with some Souldiers into *Flanders*, to strengthen his Garisons there, but by cross Winds were driven upon the English Coasts; the States Equipped out a great Fleet of Men of War, charged the *Spanish Armado*, ravished his Ships out of the Harbours of his late Majesty at *Dover*, and destroyed most of that Fleet, though in his Majesties Protection and Dominions, and against his Majesties express Command: thereby Usurping Sovereignty to themselves, and giving Laws to his Majesty in his own Dominions. A bold Affront!

*The States fight the* Spanish Armado *upon the British Seas, against the King of* Englands *Command.*

And certainly they could not think but his Majesty did highly resent it. But to keep him busied at home, and that his Majesty might have no opportunity to bring them to Justice for their Insolency: there being (*Anno* 1639.) some Distempers in *Scotland*, they did greatly promote them, and contributed their assistance to them, in all manner of Military Provisions.

*Anno*

*Anno* 1641. there happening ſome difference betwixt his late Majeſty, and his Parliament, they ſent over their Rabbies of Sedition here into *England*, and infus'd their Antimonarchical Principles and dangerous Doctrines into ſome giddy heads of the Engliſh Nation, who thereby became ſo intoxicated, that they were never at reſt till (like men infected with the Plague) they infected others; and thereby a great part of the people became diſobſervant to the Laws of the Nation, and Rebels to their King. An Army of theſe men were raiſed, they having their chief Officers and Commanders, and all Warlike Proviſions out of the United Provinces, to bring Deſtruction to the King, and Deſolation to the Kingdom. Thereby that Great King being reduced to ſtreigths, (notwithwithſtanding the many Obligations of the States to his Majeſty) they could never be induced to contribute any Aid or Aſſiſtance to redeem that Excellent Prince from ſo great Abyſs of Miſery, or to preſerve the Kingdom from Ruine and Confuſion, (which with their Aſſiſtance might have been eaſily prevented.)

*Difference betwixt the King of England and his Parliament, and how advanced by the States.*

But the States were ſo far from any Act of Charity or Piety, that *Amſterdam* was made the great *Emporium* or Market for the Rebels to ſell thoſe rich and coſtly Goods which they had plundered from his Majeſties beſt Subjects in *England*, (whereas no King or Prince in *Chriſtendom* would ſuffer them to make uſe of any of their Ports to that purpoſe) and the beſt Furniture that ſome of the States have in their Houſes at this very day, are many of thoſe ſtollen Goods.

And by this means they brought Poverty and Miſery to this Nation, Riches and Plenty to themſelves.

This unfortunate Nation being thus in Combuſtion, and all beſin'd, the *Hogan Mogans* with joy, as an ingenious Gent. obſerved, did warm their hands at thoſe unhappy flames, which they themſelves had kindled, tuning their merry Harps, when others were weeping over a Kingdoms Funeral. In *England* there being nothing but Confuſion

and Ruine, nothing to be ſeen but the Convulſions of a dying State. His now Sacred Majeſty, for his own ſafety and ſecurity, withdrew Himſelf out of *England*, and reſolved to live for ſome time (in his Solitudes) in the *Belgick* Provinces: But the States were ſo far from affording Him any comfort, as a diſtreſſed Prince, or yielding Him any kindneſs, as their beſt Friend, and greateſt Patron, that if his Majeſty had not had timely notice of it, it is credibly ſaid, that he had been delivered up (in their Territories) as a Sacrifice to the fury of his cruelleſt Enemy.

*The States afford no kindneſs to his now Majeſty being in their Provinces.*

Monarchy, and with that the Glory of the Engliſh Nation, was now departed; the People model themſelves into a Commonwealth, they take a full proſpect of the Uſurpations, Injuries, and Oppreſſions of the States, which had ſuch a horrid complexion of Injuſtice upon them, that the new Commonwealth denounce War againſt the old States, they obtain many ſignal Victories, and had much diſabled their Naval Forces. Now the States being not well able to conteſt with the Engliſh Valour, they project how they might deliver themſelves from the fury of theſe men: At laſt, they having by their Emiſſaries firſt diſſeminated Sedition amongſt the people, whereby the Commonwealth became a burthen to the Nation, and wiſe men began to be troubled at the ill face of affairs, they adjudged the beſt expedient was, to ſet up a ſingle Perſon, (the States being now ſenſible of their former errour, in not ſupporting the Engliſh Monarchy, as their beſt ſafety, and greateſt Protection) *O.* as the fitteſt perſon for ſuch a Bold-fac'd Treaſon, (by their underhand practiſe, and paying to him ſome hundred thouſand of pounds) is prevailed with to take upon him the Government of the Nation. The War is continued againſt them with great ſucceſs: yet by their Intereſt they obtain a Treaty. And thereupon paying a Million of Pounds to *O.* a Peace is concluded; but the moſt diſhonourable and unjuſt that ever was to this Nation. But ſuch as it was, it continued till his Majeſties bleſſed Reſtauration.

His

His Majeſty, *Anno* 1660. being reſtored to his Kingdoms, (forgetting all their former Unkindneſſes and Ingratitudes) his care was to conclude a ſtrict League with the ſaid States. But no ſooner was it concluded, but they return to their uſual practiſe of breaking of Articles, (who expect an exact obſervance of them from others, but perform none themſelves.). Thereupon his Majeſty, 1664. was ſtirred up by the Complaints of his people, and the Unanimous Votes of both Houſes of Parliament, to defend the Rights of his Crown, and the Liberties of his People, which the States had moſt notoriouſly invaded: yet his Majeſty to prevent the effuſion of bloud, (*as Tyrants ſhed bloud for pleaſure, Kings for neceſſity*) ſpent the whole Summer in Negotiations to bring them to reaſon, but all his endeavours proved ineffectual.

Thereupon, *Anno* 1665 enſued the War, and continued to the year 1667. Wherein his Majeſty obtained ſo many ſignal Victories, that by their humble Supplications and Addreſſes to his Majeſty for Peace, he was induced to a Treaty. And his Majeſty having the Garranty of the moſt Chriſtian King, and of the ſaid States, that no Act of Hoſtility during the ſaid Treaty ſhould be attempted by them againſt his Majeſty, or any of his Dominions; thereupon his Majeſty did forbear to Equip his Fleet. Yet the ſaid States, contrary to their Faith, during the ſaid Treaty, (with their Fleet though not half mann'd or Victuall'd for any time) moſt treacherouſly invaded his Majeſties Dominions, burnt and committed Deſtruction upon ſeveral Ships of his Majeſties Navy Royal, in his own Ports and Harbour. Whereas if his Majeſty had ſet forth his Fleet, they had not been able to have put to Sea that year for want of Mariners, and other diſcouragements upon them, having received ſo many memorable defeats by the Valour and Courage of his ſubjects.

*The States make Addreſſes to the King of* Great Britain *for Peace.*

*The States burn his Majeſties Ships.*

No ſooner was there a Peace concluded, but every Article was broken by them. And no wonder, for it's a Maxime of their State, That *all Alliance as to them is inconſiderable:*

*conſiderable: the foundation of their Greatneſs and Safety, conſiſts in their own Power and Strength.* Therefore to keep any Article is of no conſideration to them.

Now they invade his Majeſties Fiſhing upon the Britiſh Seas without his Royal Licenſe, they refuſe to ſtrike Sail, and diſpute his Sovereignty of the Britiſh Seas. Affronts ſo high, and Indignities ſo tranſcendent, that no King or Potentate (except theſe men) did ever ſo much as queſtion any of them.

*The Sovereignty of the Britiſh Seas, in the King, and the Fiſhing.*

It doth appear by the Records in the *Tower*, and the Municipal Laws of this Nation, that the Kings of *England* have had ever from the time of the *Romans* an abſolute and uninterrupted Right, and excluſive Property in the Sovereignty of the Britiſh Seas, in the Paſſages and Fiſhing thereof; and hath power to make Laws, and exerciſe Supreme Juriſdiction over all Perſons, and in all caſes within or upon the ſaid Seas, as 'twas agreed 26 E. 1. by the Agents and Embaſſadors of *Genoa*, *Catoloigna*, *Spain*, *Almaine*, *Zealand*, *Holland*, *Frieſland*, *Denmark*, *Norway*, and divers other places in the Empire. And by all the States and Princes of *Europe*, in a caſe then in queſtion between the King of *England* and his moſt Chriſtian Majeſty, concerning *Rayner Grimbold* his Admiral exerciſing ſome Juriſdiction upon the Britiſh Seas. See the Records in the *Tower*, 26 E. 1. *de Superioritate Maris Anglici.*

The Laws of *Olleron* which (after the *Rhodian* Laws were antiquated) have now near five hundred years been received by all the Chriſtian World for regulating Sea-Affairs, and deciding of Maritine Controverſies, were firſt declared by King R. 1. at his return from the Holy Land, and by him cauſed to be publiſhed in the Iſle of *Olleron*, as belonging to the Dutchy of *Aquitane.*

*Licenſes granted to Neighbour Princes for their Subjects to fiſh, paying tribute.*

If the Subjects of any King or Prince have a Right to Fiſh in the Britiſh Seas, I do deſire to be ſatisfied, What ſhould be the reaſon that all Neighbour Princes have by Treaty obtained licenſe from the Kings of *England*, for their Subjects to Fiſh in thoſe Seas, and have paid Tribute,

as

as it doth appear by the Licences granted by *H.* 4. unto the French. By *H.* 6. unto the Dutchess of *Burgundy*. To those of *Brabant* and *Flanders* by *E.* 4. To *Francis* Duke of *Britain* for his Subjects. *Philip* II. King of *Spain*, in the first year of Queen *Mary*, obtained a Licence for his Subjects to fish upon the North Coasts of *Ireland*, for the term of one and twenty years, paying yearly for the same 1000 l. which was accordingly paid into the Exchequer of *Ireland*.

And the Presidents in *R.* 1. King *John*, *E.* 3. and other Kings, are almost infinite.

And if any King or Prince could pretend to any right, certainly His Most Christian Majestie hath as good a pretence as any. But that King by the special Licence of the Kings of *England*, and not otherwise, hath fish'd upon the British Coasts, with a set and limited number of Boats. And that for his own Family, and being likewise to observe the Laws and Orders of his own Fishermen: For breach whereof, divers of his Subjects have been taken and imprisoned in *Dover* Castle and elsewhere; as doth appear by many presidents in time of *E.* 3. *H.* 4. *H.* 7. *&c.* in the Tower.

*The Subjects of other Princes pay for their liberty of Fishing.*

Neither is this singular in the King of *England* only, for in *Russia*, many Leagues from the Main, Fishermen do pay for their fishing great Taxes to the Emperor of *Russia*. And in most places, other Nations are prohibited to fish.

The King of *Denmark* doth the like, and taketh great Tribute both at *Wardhouse* and the *Sound*.

And the like he doth now for *Norway*.

All the bordering Princes of *Italy* do the like within the *Mediterranean* Seas.

The States do take an Imposition upon fish, which is taken upon the British Seas, and within the Streams and Dominions of other Princes.

The Hollanders do allow the tenth Fish, both in *Russia*, *Lappia*, and other places, or pay a Composition for the same: And do also pay a Tribute in the *Sound*, for passage to fetch the said Fish.

But I shall not give my self any trouble in a point so clear. I would desire to know of the Hollanders, by what right or title they fish upon the British Seas. If they have a right, Why did the Earls of *Holland*, and themselves after the said Earls take Licences from the Kings of *England*, for their Subjects to fish and pay tribute? as they have done, as it appeareth by many ancient Presidents in the Tower.

But now I remember, it's a Principle of their State, *That if they get the possession of any thing, never to dispute the right, so it be of conveniency or profit to them to keep it.*

*All passing upon the British Seas ought to strike sail.*

The next is the striking of the Sail, which is nothing but an humble acknowledgement of His Majesties Soveraignty of the British Seas, and a grateful submission for their liberty to pass upon them; for strangers (by the Law and Custom of the British Seas) being to pass those Seas, either in coming to *England*, or going to any other place (without so much as touching upon any of His Majesties Dominions) have us'd to take safe Conducts and Licences of the Kings of *England*, to secure and protect them in their passage. *Vide Rot. Franciæ*, 11 *H.* 4 *de Salvo conductu.* The Presidents are exceeding many amongst the Records in the Tower. The striking of the Sail, is one of the ancientest Prerogatives of the Crown of *England*; For, I observe in the second year of King *John*, it was declared at *Hastings* by the King, with the advice of His Lords Temporal for a Law and Custom of the Sea, That if a Lieutenant in any voyage, being ordained by the King, doth encounter upon the Sea, any ship or Vessel laden or unladen, that will not strike or vail their Bonnets at the Commandment of the Lieutenant of the King, or of the Admiral of the King, or his Lieutenant, but will fight against them of the Fleet; that if they can be taken, they be reputed as Enemies, their Ships, Vessels and Goods taken and forfeited, as the Goods of Enemies. And that the common people being in the same, be chastised by Imprisonment of their bodies, for their Rebellion, *Inter Leges*

*Licences of safe Conduct granted by the King of* Great Britain.

*Marinas*

*Marinus, Anno* 2 *Johannis Regis*, amongst the Records of the Tower.

The Hollanders therefore refusing to strike sail, do deny His Majesties Soveraignty in the Seas (one of the most precious Jewels of the Crown) and the principal means of the Trade, Wealth and Safety of this Nation; and which all true English men, with the hazard of their lives and fortunes, are obliged to preserve and maintain, for *Imperator Maris, est Dominus Terræ.*

*The Soveraignty of the Sea ought to be preserved.*

And as they have deny'd His Majesties Soveraignty, so they have by their Artifice supplanted the Trade and Traffick of His Subjects, which are the only Pillars of Riches and Safety to this Nation.

*The Hollanders supplant Trade.*

Consult the *Muscovia*, *Turkey*, &c. Companies, enquire at the Exchange, they will all tell you, It's gone, whither I know not, but into *Amsterdam*, and the United Provinces.

The English are as active and industrious a people as any, but (of a more generous and noble Allay) they abhor to have Trade, by those base practises, or to gain it, by those sordid means as the Hollanders do. I doubt not but the English Nation being sensible of the Injuries and Oppressions done them by these men, will in short time, by their Sword and Valour reduce them to reason.

And as they have supplanted the Trade of His Majesties Subjects; so they have endeavoured to make a diminution of His own Glory, by abusive Pictures and false Libels, not only in their own Territories, but in most of the Dominions of the Kings and Princes of *Europe*, where the name of the King of *Great Britain* is renown'd. *Reputation abroad, and Reverence at home, are the Pillars of Safety and Soveraignty.*

*The States have scandalized his Majesty by Libels.*

By these Arts they have endeavoured, not only to lessen His Majesties Reputation abroad, but to bring contempt upon Him, even amongst His own Subjects at home. Without doubt His Majesties good Subjects have a great Sentiment of these Indignities, and will not only carry an Antidote

tidote in their ears, againſt the poyſon of theſe Libels; but with their Swords, Lives and Fortunes will vindicate His Dignity, and bring theſe Ungrateful Miſcreants to Juſtice.

The States having put ſo many ſcorns and indignities upon his Majeſty, and abuſes upon His Subjects in their Trade (for which His Majeſtie was more troubled than for the Indignities done to Himſelf) He was reſolved to have ſatisfaction of them. But they to give His Majeſty diſquiet in His own Dominions, and for a diverſion to Him, made their Addreſſes to ſome perſons of the Scotiſh Nation (with them) for their Brotherly aſſiſtance, promiſing them they ſhould be furniſhed with Men, Arms and Money what they pleaſed. But the Scots (too well remembring their late ſufferings and calamities, and) having as great a ſenſe of Loyalty and Duty for their King as any people in the world, with the greateſt ſcorn and abhorrency rejected their moſt impious and rebellious motion.

*The States make addreſſes to ſome of the Scottiſh Nation to rebel.*

Not prevailing there, they ſet upon ſome Factories of Sedition in *England*: and by their Emiſſaries here, endeavoured to work upon an honeſt party in this Nation, (though differing in ſome minute Ceremonies from the Church) but they looked upon it, as the greateſt Injury and Indignity could be done them, to tempt them from the Loyalty to ſo good and gracious a King.

And certainly His Majeſty had a very good eſteem for them, or elſe He would never have granted them that Act of Indulgence: An Act ſo tranſcendent, and exceeding the bounty and grace of all former Kings, that it could not be obtain'd of them, though there had been many hundred thouſand pounds offered for the purchaſe of it. But as His Majeſty hath granted them Liberty of Conſcience; ſo (there's no doubt) they will make conſcience of their Liberty.

His Majeſty of *Great Britain*, and the Moſt Chriſtian King, of all Princes in *Europe* have moſt ſtudied and endeavoured (for the good of their Subjects) to advance Trade and Commerce; yet their Subjects cry out they have

have no Trade, and well they may, when the Hollanders are the great Supplanters of Trade, and obſtructers of Commerce (to all others but themſelves) in the world. And no wonder, for it's a prime principle of their State, *That they muſt not be like the Foe-caul, which provide food for the Lyon; but they muſt imitate the prudent Cat, who mouſes only for it ſelf.*

Nothing can be more becoming the Majeſty of two ſuch Potent Kings, not only out of charity to deliver the diſtreſſed Dutch (an induſtrous and well meaning people of themſelves) from the Tyranny and Oppreſſion of thoſe inſolent States; but out of Piety towards God, to ſettle peace in Chriſtendom (which is only by the power of theſe two Great Kings to be effected); and to which all Kings and Princes are oblig'd to contribute their aſſiſtance.

*The States have made more diſturbance in Europe than the Turk theſe 500 years.*

For let it be ſoberly conſidered, if theſe men (if we may ſo call them) ſince the Revolt from their Prince, have not made greater diſtempers and confuſions, and cauſed more effuſion of blood, aud expence of Treaſure in *Europe*, than the Great Turk hath done for theſe 500 years.

And as they are more powerful by Sea, ſo they are much more dangerous in their practiſe. For, the Turk is a Prince, who with all Potentates doth exactly obſerve his Leagues, and keeps his Faith: But it's an Apophthegm in their State, that *its for Kings and Merchants to keep their word and Faith: But for States, no longer then it's ſubſervient to their Intereſt.*

And how exactly they make this good in their actions, I appeal to all the Kings and Princes of *Europe*, if ever they kept one Article, or their Faith in any thing, where it was their intereſt to break it. Certainly theſe men live, as if great Sins would merit Heaven by an Antiperiſtaſis.

*The States will prove a greater plague to Chriſtendom than the Turk.*

And its very well becoming the graveſt Judgements to conſider, if theſe men may not prove in a ſhort time, a greater Terror and Plague to Chriſtendom, than the Turk Himſelf. Inſomuch as his Arms are at a great diſtance, and only Land-forces, but theſe men are ſeated in

the Centre of *Europe*, and being so Potent at Sea, and rich in Treasure, may cast an Army, and with that, blood and confusion into any Princes Dominion, whom they please to disquiet (especially being first reduced to poverty, which they labour to effect in all their Territories by obstructing of Trade) And they can more speedily and powerfully offend any Kingdom by Sea in one month, than the most puissant Army is able to march through in a year.

Well, It's time to reduce these men to Justice and Reason; *Prudence teacheth us to set limits to that Power, which deservedly may be suspected.* For as they grow in Puissance and strength, so the more formidable they will render themselves to all Kings and Princes. From one great King they have taken so much blood, that he is fallen into a deep Consumption: And it's adjudged by some wise Physicians of State, that he will hardly recover.

*King of* Spain.

Did they not lately break the heart of one Potent King, and almost the back of another? Do they not privately engage Prince against Prince? and by that means bring misery and calamity to them both; and out of their ruine create riches and plenty to themselves? Do they not undermine the Trade of all *Europe*, and send nothing but poverty, misery and complaints into all Princes Dominions?

*King of* Sweden.

*King of* Denmark.

How dangerous and fatal their Greatness will, in few years, prove to all the Kings and Princes of *Europe*, and to their Subjects (if not timely prevented) a weak Statist (without the help of *Galileo*'s Prospective-glass) may easily see. Yet there are a People in the World, which contribute their assistance to them, but let them be assured, that if these States by their Arts shall extricate themselves from the destruction and calamity which now threaten them, they must for all their friendly assistance, expect nothing but *Polyphemus* courtesie, to be the last that shall be swallowed up. This is too evident by their Ingratitude and Insolencies to the Kings of *Great Britain*, and to the English Nation.

Nothing

Nothing can give a check to their growing Power, but the Naval Forces of the King of *Great Britain*, whose Situation, Ports, Strength of Shipping, Courage of People, and Experince in Sea-Fights, have always made him very formidable. And that *Henry* the eighth understood so well, that he assumed to himself that Motto, *Cui adhæreo, Præst.*

This Naval Power of the King of *Great Britain*, is the security and safety of *Europe*: For if that were broken, they would look upon all the other as inconsiderable, because they are so far separate, that they might be destroyed before they could unite; and in case they did, the issue would be very doubtful.

*The Naval power of* England, *is the security of* Europe.

Then they would sacrifice one Prince after another, and bring nothing but confusion, poverty, and misery to Prince and People. And whether this be not more than conjectural, look into their practices in the *East-Indies*: Observe their Arts and Methods, by which they have reduced so many great Kings, with their Subjects, Vassals and Slaves, to their vast Ambition.

I have done: Yet I cannot but drop a few Tears for some honest People amongst them, who must be inwrapt in the Punishment, though innocent as to the Guilt.

Now the most formidable and Potent Kings in Christendom, are drawing their Forces against them: All their Trade is gone by Sea, nothing but horror and confusion in their Land; none of their Allyes durst appear for them. A mournful Tragedy. Methinks like wise Patriots, they should seise upon their States (whom they may thank for all their calamities and miseries) and yield them up to Justice; set up their Prince, whose Ancestors have spent so much Blood and Treasure to Vindicate their Rights and Liberties, and not to serve their ends of him (as all wise men think the States do at this juncture of affairs) for its an Adage amongst them, that *Leo vinciri liber perneg at.*

And the States do as certainly hate a Prince, as a Prince doth a Free-State. *Discite Justitiam moniti, &c.*

FINIS.

# THE English-mans Q. QUESTION:

WHETHER

*Imprisonment of the Body, for* DEBT *and* DAMAGES, *be more advantagious, or prejudicial to the English* NATION?

ALSO

An Account of the number of Persons that lies now in Prison for Debt in all the Gaoles in ENGLAND.

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*LONDON*,

Printed in the Year, MDCLXXIII.

BRITISH MUSEUM

# THE ENGLISH-MAN's Queſtion,

## WHETHER

## Capture of the Body, for Debt and Damages, be more Advantagious or Prejudicial to the *ENGLISH NATION.*

IF the Multitude of Induſtrious Subjects be the Glory of a King, and the Strength of his Kingdom; Whatſoever tendeth to the decreaſing of People, depreſsing of Induſtry, or rendring men Uſeleſs to their Countrey, cannot be of good Conſequence, eſpecially in an underpeopled Government.

The Wiſeſt of Kings ſends the Lazy perſon to the Piſmire to be taught Induſtry; but we ſend (it may be not all deſignedly) Thouſands of Induſtrious Perſons to the Dungeon, to be encouraged in Lazineſs, and to practiſe, without ſhame, all manner of Vices.

I know the Man that will not truſt any great Matter, but upon Security (though in Trade,) eſpecially to Perſons that are not Frugal and Induſtrious; And will not keep two Sorts of Men in Priſon; *Viz.* Such as Cannot, and ſuch as Will not Pay; but rather be Priſoners: For, quoth he, to him that Cannot, it is extream Cruelty; And to him that Will not, it is but Revenge, Folly, and Robbing the Kingdom of a Subject, who, at Liberty, would be of more Uſe to the Publick, than a Man buried alive; (and Six months Impriſonment is more than ſufficient to endow a man with Confident Injuſtice.) This is his *Paradox*: Againſt which, doubtleſs, much may be ſaid, and I might be very hard put to it, to find an Expedient for all the Miſchiefs that

ſome pretend would happen, if Unjuſt Men might not be Arreſted and Impriſoned. But this Nation is not without Men, ſo Learned, Knowing and Vertuous, as (without Wrong to the Honourable and Neceſſary Profeſſors of the Law) to propound the Remedy (and ſome good men have Ingeniouſly offered at it;) Since we do not onely think our ſelves Wiſer than our Fore-Fathers, but do in every Age increaſe *Knowledge*. But if it were not ſo, that which hath been practiſed, may be ſuppoſed to be practicable.

I am not Learned enough to give a perfect accompt of what induced former Ages not to permit Capture of the Body in Debt and Damages: but I have heard, and ſound Reaſon agreeth with it, That they Eſteemed the Body the moſt precious thing, and would not ſuffer the Common-Wealth to be robbed of its meaneſt Member.

Neither muſt you expect from me (that am no Lawyer) what they did, in thoſe times, to make Fools Wiſe, and Knaves Honeſt: But I can tell you, That thoſe Governments have not the leaſt Flouriſhed, where the Priſons have been moſt empty: and yet the People no leſs inclined (by Nature) to Knavery and Folly than we.

But ſome may poſſibly tell me, That in ſuch Governments they do (it may be) not permit Capture till after Judgment, and then alſo oblige the Plaintiff to maintain the Defendant in Priſon, (and that with ſome regard to his Quality.) They have publick Regiſters, ſo as mens Eſtates are Viſible, or not hard to be laid hold on, for payment of their juſt Debts, and fraudulent Truſts and Conveyances will not there avail; by which means Creditors are rendred leſs Cruel, and Debtors are not onely made honeſt and wiſe without Capture of the Body, but men that Truſt may be informed what they do: and not like many Fools among us, (for Covetouſneſs of Cuſtomers and Chapmen) let men run in their debt, upon ſimple hopes, not good Grounds, of being ever paid: Which Folly often bringeth both Debtor and Creditor to a Priſon; for men, like Ninepins, tip one another down.

If any will throw ſuch Objections in my Teeth, I muſt ingenuouſly confeſs that I cannot anſwer them directly;

but

but I do humbly refer them to all good men in Authority; and if they get no Satisfaction there, let them peep into the best of our Debt-Prisons; and behold their Useful Employments and Heavenly Conversation. Step but to the *Kings-Bench*, and the *Fleet*, (those Two Famous *Academies* of the Nation) and you may have the Names of Thousands of simple Creditors, That can tell you what Time and Money they have spent, and how little they have got (Sweet Revenge excepted) by Imprisoning their Debtors; and how much better Terms they might have had before, than after their Imprisonment. Of which you may gather something from the Witty Answer of a Cook; to whom some Prisoners grumbled for the Dearness of his Meat; *Why*, quoth he, *you need not grudge it, for you do not spend your own, but your Creditors Money.* And yet some Creditors when they have got their Debtors fast, are as proud of it, as an Ass of a wrought Bridle.

*A Witty saying.*

A man clapt in Prison, that owes not half so much as he himself is worth, or hath owing to him; is not onely discredited, but ruined: for his business is neglected and confounded: Those that owe him will not easily pay; and the Prison being chargeable, and filling a man with Distraction, he takes what he can get: But the Plaintiff rarely gets any thing but *Hearty Curses*, which often prove effectual. So here is an Industrious man, and all that depend upon him, brought to Penury and Misery, to augment the Army of Beggars and Idle Persons: and all to gratifie a foolish Creditor, if not a malicious one; and it may be he is but a pretended Creditor neither; that having malice enough, and more Money, or Law wit, than the Defendant, hath got him into a Noose of Law, which the Teeth of the most Innocent are not able to bite asunder, without the powerful help of Gold.

*Effectual Cursing.*

Our Laws, in matters of Life and Death, are highly commended by all Nations: but our proceedings in Debt and Damages exceedingly condemned. And it seemeth strange to some Rational Men, That since the Liberty of the Body is of so much publick and private Concernment; any Law or Custome should permit its restraint, before it be Judicially proved,

proved, that the Defendant is a Debtor or a Treſpaſſer. Nor are ſuch men ſatisfied with that ordinary Apologie, That if the Body were not arreſtable before Judgment obtained, the Defendant might run away. For they ſay, that hardly one Arreſt of Twenty, but is either Cauſeleſs, for little Cauſe, or to ſmall purpoſe; and oftentimes *A.* arreſted *B.* onely becauſe *B.* arreſted *A*; and both lay down the Cudgels when they have ſpent the Money that both (*Great Fooles!*) laboured hard for; and which, it may be, their Families do want. They adde, That a Debtor may as well fly before an Original Writ, or Action, as after Judgment obtained: and that he that Can and Will run away, may well be ſuſpected to want Ability or Will, to make ſatisfaction. He that Arreſts a poor Debtor is Cruel; and that Creditor is his Brother, that thinks he keepeth the Carkaſs of a Rich man in Priſon, who will not pay; if it be true, That he that hath Money is a Priſoner at large.

Let a Sober man examine what Families of peaceable people have left their Countrey; and how many good Strangers, that would dwell among us, do avoid us for our Practiſes, under the Tolerations of Capture, in Debt and Damages; before a Judicial Hearing. They cannot apprehend it to be very juſt, that a thing of ſo much Conſequence as the Liberty of a Man, ſhould be taken Violently from him, upon bare pretences and falſe Informations, before the Judge and Jury have examined and adjudged the matter; for till then the truth cannot appear; and that which appeareth not, is as if it were not.

Let us arm an Accompt of what it is, to drive away but 15000 Perſons out of a Nation, and hinder but a quarter part of that Number from coming in. Although in ſome Caſes Seven Years be eſteemed the age of a man, Yet may it without very great difficulty be allowed me, That we live one with another 20 years. As alſo that few Men or Women conſume leſs than the Value of Twenty pounds *per annum*. But admit it one with another at that Rate; (Some may ſpend leſs, but many much more) Then every Year that ſo many perſons are abſent, the Kingdome loſeth 400000 l. in its Conſumption of Food and Rayment; and

if

if they continue absent, I pray the Ingenious Reader to help me in the Supputation of so great a summe (besides the Generation and Employment) as so many persons kept at home, and invited from abroad, would amount unto: For my little Arithmetick beginneth to fail me, and to leave me in Admiration about the Consequences of so Weighty a Notion. If then the Encrease of People be the onely Way to raise Lands, and to have Rents well paid: the way to keep men in their own Country, and to invite Strangers from abroad; is to remove so great a discouragement, as this Violence, used to the persons of men.

If notwithstanding all this, any will say that Captures are necessary; for that all that are Arrested go not to Prison, and that the Fear of it maketh many wise and honest men; I say farther, That good men lose, suffer, and give away something; rather than go to Law, either as Plaintiff or Defendant; and so the Practice of Arresting the Body is of no great Benefit to them. Nay rather a hurt, for the Complaint of the Prophet may not be improperly taken up in our dayes; *He that departeth from Iniquity, maketh himself a Prey.*

I have heard a Man say, (but surely wickedly enough) *I can have my Ends of such a One, for he loveth not Trouble.* It may be true, That by the Fear of Arrests, some are frightned into caution, frugality and honesty; but it will be hard to make out, that it doth countervail the Villanies that are committed under the Authority of Arresting men for very small matters, and in great Fob Actions, out of meer Malice and Revenge, for which every one cannot find Baile, and Money to defend himself. The Man is known that was Arrested at the Suit of the Chamberlain of *London* (who knew not of it) in 10000 li. upon a pretended forfeiture of a Recognizance for exhibiting of an Inventory; The Defendant took his *Habeas Corpus* (for which and Juries, let us be thankful) in the Common Pleas: and, as there was no ground, so the Plaintiff never proceeded: and nevertheless the Defendant was advised he could have no damages. But such Causeless Actions are so frequent, that he that is a man of business, and is a stranger to them, may be

*A Wicked saying.*

*A Mercy.*

be easily admitted Master of the *Ignoramus* Office.

*Inquire at the Crown-Office.*

If it be true, that we finde upwards of 50000 Persons constantly in Prison for Debt and Damages, besides Comers and Goers, and such as Death delivereth from the Cruelty and Imprudence of their Adversaries; What Recompence can the Kingdome have for the depriving it of so many Members? What Confusion and Misery is there among so many wretched Persons and their Families? How can a Countrey be without store of Beggars, Vagrants and Rogues, till so great an Inconvenience find a Remedy? And what pity is it, That in an Ingenious Nation (boasting of Knowledge, Vertue and Religion) the Expedient should yet be to seek? Or if found, not put in practice.

Is there no Way to make discovery of unjust mens Estates, to distinguish the Poor from the Rich? No Courts of Conscience (like that in *London*) to be erected in convenient places, for decision of small Matters, and to prevent hurrying of poor people to Prison? No perswading of us to wear our own Manufactures, and employ Idle persons and such as will not pay their Debts, but rather lye in Prison? Are all Large Charities put into private mens pockets, or divided amongst the Overseers? Do Ships want no Seamen, nor the Sea-Coasts no Fisher-men? No Harbours to be recovered, nor Channels to be cleansed? No Rivers to be Cut or made Navigable? No High-Wayes to be mended and made more passable for Travellers? No Timber to be planted, or Grounds to be improved, or better secured from the Sea? No Publick good Works to be done at a very Cheap Rate? Shall this Great Army be ever usefes, and lye idle, to infect a Brave Nation? Is there 8. or 9000 Parishes that pay (it may be) 800000 li. *per annum* to their Poor; and Cannot a Stock be raised to imploy them and other Idle People!

Can that Prisoner justly Complain, that hath nought to pay, if he be employed to get Food and Rayment? Would not many idle debauch'd Prisoners, that have concealed Estates (but will not pay,) rather Vomit all they had than Work? And if a Debtor will upon Oath give an Accompt of all he hath, directly or indirectly, and assign the same to

be

divided amongst his Creditors; ought they not to accept it, and he be discharged if they refuse it? All Evils will not be prevented by any Expedient: Some men will suffer wrongfully whilest there is any Vertue to be exercised; But Nature is an utter Enemy to all Idleness. And surely those Nations are more Ingenious and Just to the Lawes of Nature than We, that rather permit a man and all that belongeth to him, to be sold, for debt or petty Crimes, than shut him up: to be a burthen to himself and his Country; and to make his Wife and Children to encrease the Stock of Beggars.

A sober knowing man will judge it no great mistake, if I compute the Number of Prisoners for Debt, Damages and petty Crimes; Beggars, Vagrants, and Idle poor people of this Nation, that might be employed (for most that are not heart-sick, even the Blind and the Lame, may do something,) to amount unto near 200000 Persons; which employed, and earning but a half-peny a day (one with another) more than their cheap Food and Rayment, would encrease the Kingdoms Stock above One hundred thousand pounds *Sterling per annum*, besides all the other Profits and Conveniences, that would necessarily wait upon so good a Work. Let the Wise *State-Physitians* but prescribe Antidotes against this Poyson of Captures and Idleness; the Prisons shall be empty, Robbing and Begging will be Rarities; *English-men* will stay at home, and Strangers will flock to us from abroad: Strength and Wealth will abound. We shall be able to Lend, and have no need to Borrow.

If you esteem not what I say, Ask but the Butter-Boxes, What Wealth and Strength they acquired (both abroad and at home) by inviting, naturalizing, granting Freedoms in Cities for a small matter, and encouraging all Industrious persons, and Employing or Chastizing *Messieurs les paresseux*.

Why should a Rational Man Wonder to behold the Houses stand empty, and (in time) the Trade of *Londons* famous City, dwindle to nothing, (or her whole Body ruin'd Skirts) whilst her Citizens (and some of the Chiefest) be boyled alive in Prisons. Whilst she banisheth Foreign-

ers, and cloggeth her Freemen with Oaths (which they rarely keep) and Spend-thrift Offices, that ought to be performed at her Publick Charge, which would furnish her with Choice of Brave Men, fit for such Employments.

I will not undertake, because I judge it no easie matter, to perswade her Shop-keepers, and ordinary Trades-men, out of this Fancy; That the more there are of their way of dealing, the worse it is for them. But let them look into the Suburbs, and also examine, Whether this be not evidently true, That where there are a Multitude of people, there the Consumption is augmented, and every one maketh business for his Neighbour. Where there is greatest Choice, thither flock the most buyers.

And here I cannot but commend and Value every man that hath a Trade or Calling, (be it never so mean) and is Industrious, Sober, Honest, and Thrifty therein. For he is not onely a Bee in the Great Hive of his Countrey, but is a Comfort to himself and Relations; honoured of his Family, and respected of all good men; (I deem him also more happy, than he that liveth only upon his Revenues) whereas the Idle person is a Burthen to the Earth, and his own Tormentor. *In all Labour*, saith the Wise man, *there is profit, but the talk of the Lips tendeth only to penury. Also he that dealeth with a slack hand, is Brother to him that is a Waster.* From whence may be gathered, how erronious the Opinion of some is, That a Prodigal Person is a good Common-Wealths-man. If Idleness, Pride and Vanity, lessening and consuming of Patrimonies, and Beggaring of good Families, be the Honour and Profit of a Nation, the Sages of all Times were Block-heads, and much mistaken in their Vertuous Precepts and Examples. A good Man will abhorr Covetousness, because it is Idolatry; and a Prudent Man will shun Prodigality, because it is the Fore-runner of Want and Misery.

Prov. 14.

Prov. 18.

I conclude my Notion with part of another that I had from a Friend, upon the Subject of Captures. It was his Opinion, That it would not be an unsuitable punishment for men able and unwilling to pay their Just Debts, and whose Estates could not be found, after Judgment obtained,

ed, and Execution awarded for the Sum really due, to ſpare their Carkaſſes, and make it lawful for the Truſtees (of their concealed Eſtates) and Debtors of ſuch Perſons, to be for ever diſcharged of their Truſts and Debts, ſo far as double ſuch Execution ſhould amount unto, upon bringing into Court, the Sum in ſuch Execution contained, to be paid to the Plaintiff. His meaning was, That ſuch Truſtees and Debtors to unjuſt men, that would lye in Priſon, rather than pay a real Debt, ſhould have to themſelves one half of what they diſcovered to the Plaintiff; and ſuch Truſtees and Debtors to be ſome way puniſhable if they did not make Diſcovery. I cannot ſay that I approve it throughly, for great Inconveniences might ariſe by it (if not well qualified:) Howbeit, the Law given the *Jewes* ordaineth the Theef to reſtore Two-fold: and if a man that is able, but unwilling, to pay his Juſt Debts, be deemed worſe than a Robber; Some think it cannot be too great Severity, to make him pay or loſe the Double of what he would obſtinately defraud his Creditor, who, it may be, is thereby brought to a Morſell of Bread, and a Spoonful of Water. Others (though Sober Men) ſeem yet more extravagant, when they imagine, That ſcarce any Remedy could be Univerſally Worſe, than the preſent Evil Diſeaſe of Captures. *Exo.22.*

FINIS.

# EXCUSE

[illegible]

[illegible]

[illegible]

## ERRATA.

Page 15. line 22. *for* Covetouſneſs, *read* Cauteloufneſs. Pag. 18. lin. 11. *for* other, *r.* their. Pag. 19. lin. *6. f.* vigour, *r.* rigour.

BRITISH MUSEUM

# THE CASE OF Richard Thompſon AND COMPANY:

## With Relation to their Credito

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Publiſhed for better Information.

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*LONDON*,

Printed in the Year, 1677.

BRITISH MUSEUM

# *The CASE of* Richard Thompſon *and Company.*

THAT we being ſeverally poſſeſſed of conſiderable Eſtates, did upon the ſecond day of *January* 1670. (as is frequent with other Merchants) enter into a Society among our ſelves, giving our joynt Bonds for ſecurity to all ſuch Perſons as offered Money to be depoſited with us. Many had adviſed, more approved of this our Undertaking, and daily confirmed us in it; by intruſting us with ſeveral ſumms to a great value, at the uſual Intereſt: which they found ſo little cauſe to repent of or ſuſpect; that notwithſtanding the Calamity which about a year after fell upon Bankers, and conſequently upon ſo many hundreds of Perſons concerned with them in the Exchequer, yet our Creditors continued the more their former Confidence in us, till in ſucceeding years ſo many others choſe to imploy their Money in our hands, that the Debt muſt neceſſarily exceed our Eſtate, of which our Creditors could not at the ſame time be ignorant, yet were not diſtruſtful. And therefore we extended our utmoſt Induſtry, and Fidelity, in meaſure to the growth of our Reputation: having

imbarqued our ſelves in ſeveral advantagious or probable Trades: That of Wine, that of Silk, that to *Ruſsia*, parts of *Eaſt-India* Shipping, the private Trade to *Eaſt-India*, Lead-Mines, the *Iriſh* Manufactures, Exchange, *&c.* omitting nothing within the compaſs of our ingenuity; whereby as we were at firſt, ſo we might ſtill be enabled to comply with our Obligations to ſo many worthy Perſons.

Nor were our endeavours herein unſucceſsful; but that notwithſtanding the difficulties which all Merchants have for theſe late years experienced, and which we particularly in ſo various Buſineſs and Adventures muſt neceſſarily have met with, we were, by God's Bleſſing alwayes in a condition to perform with our Creditors, and in a rational proſpect of far other Fortune to our ſelves, than hath ſince befaln us. So that for above five years time we chearfully and punctually comply'd with all Men, our dealing being direct, and open; nor any viſible or hidden flaw in our Credits, but we paid every one duly, whether Principal, or Intereſt, as demanded: nor could it in ordinary Reaſon have happened otherwiſe for the future.

For it is not eaſie to imagine, that Men ſhould conſpire to tear out the Planks of that Veſſel whereof themſelves are the Owners; or plunder their own Fortunes out of a Ship which themſelves had fraighted; nor

that

that the ſame Perſons, ſhould at the ſame time build up a General Credit, and deſtroy it.

There is indeed in all Undertakings of this kind, as in other humane Affairs, ſome mutual hazard: But the Adventure of the Debtor however is much greater, and his Caſe much harder than that of the Creditor.

For moſt Creditors do only let out to them the Sparable, and more *Superfluous* part of their Eſtates for a certain Income: Whereas the Debtor imploys his whole Time, and Induſtry; binds his whole Fortune; and which is more, expoſes all his Reputation for Security to the Creditor's Humour, or Conveniency.

But therefore the Creditor, at the ſame time that he receives Bond, does in the very nature of the thing enter into a tacit Contract, both that his Debtor may imploy the Money, without which it is not to be ſuppoſed that he ſhould pay Intereſt; and that himſelf will not joyn with the reſt in ſo ſudden and univerſal a Draught, as ſhould make it impoſſible to diſcharge the Principal.

We may well call this a Contract, ſeeing although unwritten indeed, and unatteſted, yet is it as firm as Humanity to the Debtor, Equity to fellow Creditors: or ſetting thoſe aſide, Truth to a Man's proper Concern, and Security can make it.

Yet the contrary to this befel us, at a time when we could leaſt foreſee or expect it. Our Creditors about

*Michaelmas*

*Michaelmas* 1675, begining to run at once upon us; and by how much we had given leſs Reaſon for their doing ſo, the leſs hopes was there to allay it by Reaſon. We were not ſo unconcerned, as to be long ignorant whence it all proceeded, but we think it more meet and proper in our Condition, to humble our ſelves for having aimed at a ſuperfluous Fortune, than to reproach the Malice, or Imprudence of ſuch as have occaſioned our Ruine.

We attempted (but in vain)to mitigate by Diſcourſe this harſh manner of proceeding, and that not taking place, we made ready Payment, the ſole ſatisfaction that would be admitted. To do this, we did not only exhauſt all thoſe Summs of Money which we ſtill reſerved (at detriment) by us, to have ſupplied the ordinary Draughts of our Creditors upon occaſion, but were conſtrained to hale back whatſoever lay within our reach, and which had the moſt appearance of profit, at the greateſt diſadvantage and loſs.

For that general Stock, which was, and had hitherto been eſteemed as a grand Counterſecurity to every particular Creditor, was now turned into an Argument of Jealouſie,and Diſcredit: And we were daily ranſacked and run upon with ſuch haſte and violence, as muſt have diſordered the moſt reſponſible Perſon, or Society, in their private Eſtate and Reputation. Where all Men puſh at once, who can ſtand ſingle?

It

It were almoſt impoſſible even to tell ready Money in that time, within which we were forced to provide it, and for thoſe, who, (if we may have leave to ſpeak it) although of the moſt importunate, found it uſeleſs, and rather troubleſome to them, as ſoon as received, ſo far from neceſſary.

And yet in this condition we bore up from *Michaelmas* to *March* following, (time enough for ſecond Conſiderations, and milder Counſels) till we had paid about the ſumm of Sixty thouſand pounds, (ſufficient one would have thought to have qualified and aſſwaged ſo cauſleſs a Jealouſie, and ſo extream a Rigour:) But the Humour not abating, and Men being the more hardened by our Compliance, we were then conſtrained to take another Method, the moſt contrary to our Nature, to our Intentions, and to which nothing but the utmoſt neceſſity could have compelled us: For we were indeed as Men ſtifled with the crowd of Demanders, ſo that there was no longer living in it, but about the 9*th* of *March* aforeſaid we found it neceſſary to ſummon our Creditors.

We propounded to them that we ſhould in eight Six months time, pay off the Principal without Intereſt, which we did upon our beſt computation, of what was yet poſſible in an Eſtate (not by our fault) ſo mangled already, and under ſo ſhatter'd a Reputation.

But this our Creditors rejected, and required the

view of our Books, which we ſubmitted to, wherein there appeared about Thirty five thouſand pounds more Credits, than Debts. Upon the ſight of which, they not looking further into our Loſſes or bad Debts, but taking all for good, and the Contingent for Certain, thought it reaſonable to impoſe upon us the paying of Intereſt, and to allow us no more than *Six Six Months* to extinguiſh the Principal.

They could not have exacted any thing more plauſible from us, or more ſuitable to our own inclinations, than not to pay one farthing leſs than we owed: only we were fearful, having once ſuffered, to enter again into Conditions that ſhould hinder the Effect.

But to overbear us in this, they diſcourſed with ſome probability, and in much ſerioufneſs aſſured us that upon making ſo fair and ſpeedy an Agreement, (eſpecially ſince by their ſearch in our Books, they had found nothing in the manage of our Affairs, but what was both honeſt, well laid, and Merchant-like) we ſhould find the return of our former Credits, and be fortified with freſh Reputations.

This, from thoſe, who had both the power to impoſe their own Terms upon us, and ability to make good their own Promiſes, was too ſpecious for us to diſtruſt, and too forceable upon us to have refuſed.

We had before offered them freely to deliver up the whole Eſtate into the hands of ſome Truſtees of their

own

own Number, to have collected it in for the reſt of the Creditors : But the *Major* Part thought fit, that having agreed to their Terms, and times of Payment, We who were beſt vers'd, and moſt concern'd in the Iſſue of the Affair, ſhould have the care of conducting it to a Period.

And now we had reaſon to hope, after we had been induced to ſubmit to the payment of Principal and Intereſt, that none would have refuſed to ſign ſuch fair Propoſals, but that we might without diſturbance have collected the Eſtate, which lay at Six and Sevens in a periſhing Condition, for want of preſent management. But as we muſt upon all accounts acknowledge our own Weakneſs ; ſo we think we have right to ſay, (upon experience) with reſpect to others, that there are ſome times when Men have leſs of Reaſon than all other Creatures.

For it was evident, and our Books which we had ſubjected to a daily inſpection did demonſtrate, that every moment of time gained or loſt was a ſum of Money ; that all delay made us the leſs reſponſible ; that the Eſtate if none took care of it, would diſpoſe of it ſelf, out of the reach both of the Creditors, and our ſelves ; and that our Debtors would poſſeſs it : That there was no coming to an end, but by an Agreement, which therefore the more conſiderable part of our Creditors entred into ; and yet nevertheleſs there

remained ſtill a number ſufficient to obſtruct any good buſineſs of this kind: who though they knew we had drawn out all the Blood in our Veins to give ſatisfaction, yet would not allow us any time to reſtore Nature, but obſtinately refuſed to ſubſcribe the ſaid Agreement: as if they accounted it a more deſirable thing to have their Will, than to exerciſe their Underſtanding; and to execute a cauſleſs and unprofitable Revenge, than to arrive at a juſt Payment.

It was three or four Months time that had lapſed from the Ninth of *March*, before the greateſt part of our Creditors had Signed; but the other continued Refractory ſo long, until many of our Correſpondents both at home, and abroad in Forreign parts, took advantage thereby to delay, and ſome to imbezel what they had in their hands; beſides the badneſs of Trade, and the general Poverty, which made all Men leſs ſolvent.

We therefore, that the Eſtate might no longer lie as a Waif and Stray, and in right not only of our ſelves, and the ſubſcribing Creditors, but even to thoſe who neglected and oppoſed their own and the common Intereſt, took up a Reſolution, whatſoever were the hazard, to encounter it, and commit our ſelves to the Diſcretion of Mankind under God's Providence.

Accordingly we undertook the management; but no ſooner were we engaged, than we found our ſelves beſet

beſet & ſurrounded by thoſe that had ſtood out againſt the Agreement; and who thought it doubtleſs an honeſt, but however a wiſe Deſign for them to be their own Carvers out of the whole Eſtate, now that the reſt had bound themſelves up to expect the times and proportions of Payment.

Our firſt Welcom, (and our conſtant Entertainment ſince) was by Threats, endeavouring Statutes of Banquerupt, Arreſts, three or four Arreſts ſometimes, and as many ſeveral Declarations, for the ſame ſum of Moneys, Attatchments, Volumns of Menacing Letters, with a multitude of other Affronts and Unkindneſſes, too long here to enumerate: It is not indeed to be deſcribed the Miſery and Importunity we again lived under.

If (as it was in this Caſe our Duty) we defended the Eſtate againſt them, it was ſo at a great and conſtant Expence, being liable to pay their Charges, beſides the Principal and Intereſt; which we were forced to tear out of the whole Cloth, and to ſpoil the whole juſt Diſtribution, in order to ſatisfie their particular Concern.

Now to ſupply this continual Flame with Fewel, we cut off the moſt fruitful Branches, and grabbled up the very Roots of our moſt profitable Trades, (for there was no doing the one without the other:) yet here alſo they way-laid and ſtrove to prevent us. One

of our Company (having ſeveral weeks before publiſhed a Journey for *Ireland*, and left all things here in good Order,) while he went over to gather in Debts, and diſpoſe of that Manufacture, becauſe it was moſt ready at hand; of the greateſt improvement, and raiſed the more undeſerved Envy and clamour, was Arreſted at the Sea ſide and Impriſoned, with all the ſpightful circumſtances that could be contrived.

For in all theſe things, it ſeem'd their buſineſs was not more to enforce Satisfaction to themſelves, than to render it impoſſible for others, not being contented to reap, unleſs they trampled all down, and made havock.

The Sums which by this hardſhip they extorted from us, were very great in themſelves, but in the Conſequence much greater, and more intolerable.

For hereby we were diſabled from taking any certain Meaſures of our Time, or the Eſtate, nor could by the Improvement of one Trade ballance the Diminution in another; but were forc'd to ſnatch at every thing whereſoever we could wrap or rend, to be devoured by them. And others in their capacity, (but who were more diſpoſed to Expectation and Forbearance) were induced by their Example, and with more ground of Reaſon and Neceſſity, (leſt nothing ſhould be left) to ſtrike in with them for their Parts, and joyn in the Oppreſſion.

What was thus occaſioned by Conſequence, was how-

ever

ever more innocent in them; and though much, yet leſs prejudicial to us, than what they did by Deſign, and upon ſet-purpoſe.

For every Succeſs they had againſt us, ſeeming to them as a Conqueſt; they were not ſatisfied to enjoy the fruits of their Victory, unleſs they proclaimed them too abroad, and in all places publiſhed the Particulars. They adviſed others by Letters, and in their daily diſcourſes egged them on to proſecute us; inſtructing them moreover how to do it in the moſt effectual manner. Nay it was come to that at laſt, (ſuch happineſs did ſome of them take in rendring us miſerable) that where they met with a more peaceable Creditor, they have endeavoured to buy his Claim, that they might have a Title to vex us.

They deviſed untrue Reports, fomented undue Suſpicions, and would never ceaſe till they had infected in a manner the whole Town with a Belief of our Inſufficiency: which was a good, and indeed the only way to make a future Truth of a preſent Falſhood: For thoſe who deprive Men at once both of Eſtate and Reputation, may eaſily foretel what muſt follow.

And to put the laſt hand to the Accompliſhment of this Work: As they had ſuggeſted our Inſufficiency, they defamed our Intentions, (of which God is a better Witneſs) as if we had a deſign to defraud them, and all others.

Whereas

Whereas by our Payment before the ſtop to above Sixty thouſand pounds, as is before mentioned.

By our then offering up the remaining Eſtate to the Creditors own diſpoſal and Collection.

By the difficulty we made afterwards to undertake this Agreement.

By the performance of it ſince under all theſe Preſſures and Violence from others, (when once undertaken) till we had iſſued near Fifty thouſand pounds more, we have ſufficiently manifeſted to any common Ingenuity, how ſincerely we meant, and how undeſervedly we ſuffered under thoſe Aſperſions.

But if Cruel Men will judge us by an Effect, of which themſelves are the Cauſe, what defence is there againſt Calumny?

And yet this our Complaint which we make unwillingly, and not by way of reflexion, but of neceſſary and plain Narrative, might have been ſpared and prevented, had thoſe Worthy Gentlemen, complied with our firſt Propoſition, or with their own good Intentions, and the Promiſes they made us, who thereby prevailed with us to ſubmit, and on their own Terms to pay the Intereſt as well as the Principal.

For had they but accordingly refreſhed, and fed us again with moderate and ſeaſonable Credits, (whereas moſt of them after the Agreement made, rather ſtudied how to ſubſtract and drain their Proportions before

the time ) we had in all probability been able, either to manage, or draw in our Eſtate regularly to advantage, and might inſtead of eating our Corn in the groſs, have expected the Harveſt.

But where our Friends at once failed us, and our Enemies all along purſued us, vve muſt be, vve vvere reduced to extremity.

We ( if not rather they ) have broken dovvn all theſe moſt probable Trades of, *&c.* before mentioned, while others that build upon our Ruines take them up at the ſame inſtant, and manage them by thoſe that were our Agents: ſo rational do our Deſigns yet appear, and ſo proper our Inſtruments.

We have drawn what we had therein back by Exchange at great dammage.

Many of our Debtors broke, while we brought them under the ſame circumſtances which obliged us to call upon them.

Others of them took this advantage upon us on purpoſe to defraud us.

And ſome delaid Payment out of their own Covetouſneſs.

Nor were we able to ſell our Effects at the Market price, or upon any tollerable conditions.

Being diſabled to Buy, Sell, or Receive Debts in, like other Men, but at Twenty, Thirty, and ſometimes Forty *per Cent.* loſs, beſides all deſperate Debts, and ordinary accidental Loſſes.

Our

Our Creditors ſeveral of them, and even ſuch as have in 1676 received half of their Money, did ſtill in the beginning of the year 1677 ſummon us before the Lord Chancellor, to ſhew Cauſe why a Statute of Banquerupt ſhould not iſſue againſt us, giving up our Names to the Clarks of the Office beforehand to prepare it, divulging all upon the Exchange, and through the Countries; Dèclarations, Arreſts, Actions, *&c.* were our daily-Bread, as it hath been from the beginning, and no better proſpect for the future.

We could not at laſt have ſo much Credit upon the Exchange as to draw one hundred pounds upon our Correſpondents beyond Sea, on whom we could have drawn thouſands without the leaſt ſhew of ſuſpition.

This has been, and is our Condition, tedious to relate, but much more to ſuffer, yet not the hundredth part of the uſage we have met with, the which we conceal out of modeſty to the Actors.

And we who were all our lives hitherto of unblemiſh'd Reputations, of Reſponſible Fortunes, and (for which we appeal to God) of Honeſt, Conſtant, Upright Intentions, were become by this means in the compaſs of one Year the ſad Objects of common Obloquy, or Pity.

But that which moſt afflicts our Spirits, (if there be any diſtinguiſhable degree in ſo extream an Affliction

in

in ſo utter a Confuſion ) is to reflect upon the Favour and Patience of thoſe worthy Perſons towards us, who by the contrary proceedings of others, are for the preſent betrayed into the worſt Condition : And would to God it were in our power yet to redreſs them.

But the Loſſes we have ſuſtained, and muſt foreſee, are ſuch, that we our ſelves can ſcarce believe it, and therefore as yet forbear to mention them ; but ſo great they are, that we in faithfulneſs, and as the beſt remaining husbandry to the Body of the Creditors, are obliged to make our Retreat, and give this Account of it.

For though the uſage we have generally met with hath been ſo unmerciful, and as we think unreaſonable, as might corrupt Mens Nature and Principles, and tempt us to commit a Baſeneſs not without a coulour to juſtifie it ;

Yet it will be found, that what we are thus inforced to do, hath not been in Fraud to our Creditors, but the better to pay every one an equal proportion as far as the Eſtate will reach, (if equitably and timely conſidered :) And to prevent thoſe who would make private Seiſures to their own uſe, and leave nothing for the reſt, as hath been too much practiſed already.

Thus far we had faithfully ſtated our Caſe before we withdrew, cauſing ſeveral Copies of it to be prepared to repreſent the whole Matter to our Creditors Conſideration. But it found ſo little entertainment in minds freſhly exaſperated, that we were diſcouraged from making further uſe of it till Time and Experience ſhould bear witneſs to the Truth of what we declared, and and diſpoſe Men to another temper.

In the mean time therefore our Creditors without giving themſelves or us any reſpit to deliberate of a Propoſal for other ſatisfaction, Petitioned the Lord Chancellor upon the very ſame day that their Money firſt grew due, for a Statute of Banquerupt againſt us, which was ſoon granted; And hereby we were prevented by ſome days, from tendering that Offer which we immediatly after made to ſome of the moſt eminent Creditors, and within a while after to the whole Body of thoſe about *London*, at a general Meeting upon our requeſt at Mr. *Thompſon's*.

Where we beſought them to except of 6 *s*. 8 *d*. *per* pound, that being the uttermoſt which upon our beſt Calculation the Eſtate would amount to. But of that We promiſed the one half within Six days after their general ſigning their Aſſent to that Propoſal: And the remaining half within *Two Three Months*, the ſooneſt that We could draw it together out of the hands of our ſeveral Correſpondents.

This

This divers of our Creditors ſubſcribed to upon the Place; And many others vvere ready to have followed, but ſuſpended again till they might behold a while what the effects vvould be of a new Statute taken out by ſome ſelect Creditors; And which was proſecuted vvith extraordinary vigour and violence.

For it is vvorth notice, that vvhereas the firſt Statute had been granted upon the general Petition of the Creditors; And the Commiſſioners therein appointed by their common Nomination and Conſent: Theſe others procured that firſt to be ſuperſeded; and having obtained a ſecond Commiſſion at their own private Application, and vvithout communicating with the Body intereſſed; Yet they quaſh'd that alſo, and had another granted. So that in one Months time there were no leſs than three ſeveral Commiſſions of Banquerupt iſſued out againſt us.

And this might naturally lead us to ſearch into the Cauſes, and to demonſtrate thoſe Cauſes by the Effects and Proceedings of this third Commiſſion. But neither is it our Intereſt nor our purpoſe to reproach the preſent Commiſſioners, or by reckoning up other Mens Faults to diſcount for our own Failings, much leſs is it for us to cenſure any ſingle Creditor, who being all indamaged, and therefore ſubject to think themſelves injured by us, are free to proſecute each his own Remedy according to his beſt judgment.

But whatſoever can be ſaid with Truth toward the rectifying our own Reputation, or for better information of the Body of the Creditors, and to vindicate the remainder of the Eſtate to their uſe, from the danger of this Statute, that we take our ſelves not only allowed, but obliged to publiſh, yet always as Men under the reſtraint of our own modeſty.

And therefore we ſhall alſo paſs over all the perſonal Rigours of this third Commiſſion againſt our ſelves and Families (with all the Menaces, Contumelies, and Reflexions upon us) although the like of it hath not been uſually practiſed; and though even of late years there have ſeveral Caſes happened of as odious circumſtances, and where the reſpective ſums due to particular Creditors have been greater, and yet all accommodated upon eaſier terms, without any ſuch harſhneſs. But if any of the Diſgraces caſt upon us beyond truth, or number; or if any ſuch perſonal ſeverities uſed or threatned, have or could poſſibly tend to the ſervice of the Creditors, or to enable us to pay any one of them a greater proportion than our Propoſal, We are ſufficiently humbled to ſit or lie down under them, and to admit any; though this be the worſt Expedient for their advantage.

But as that firſt Run vvas ſo fatal to Us and our Creditors, ſhrivling the whole Eſtate by thoſe forceable Evacuations; And vvithdrawing on the ſudden all Nou-

Nouriſhment of Credit; ſo theſe ſecond Proceedings, vvhether more or leſs Statutable, if continued, can only contribute to make the Remainder dwindle into nothing.

For in all Commiſſions of Banquerupt, unleſs We ſhould imagine the Commiſſioners to be more than Men, and ſo ſelf-denying that they will act againſt their own Intereſt, it is to be ſuppoſed that they will not be their own Executioners, to do any thing that may deſtroy their Office. But whereas it is the Creditors aim to come by their means to a ſpeedier Concluſion, they on the contrary muſt intend all things whereby they may perpetuate their Power, and their Salaries.

Hence are the Examples ſo frequent of Eſtates torn in pieces, made deſperate, eaten and drunk up by Commiſſions, but few or no Preſidents where Creditors have thereby recovered more than the Debtors voluntary Propoſal.

But however, were ſuch Statutes uſually carried on in the direct and moſt diſintereſſed way and manner, yet the neceſſary Expences that accompany them, and the Charges of Law that follow after, are ſufficient to conſume what the honeſt Debtors have ſav'd to make Reſtitution; and hath ſo far vitiated ſome, or neceſſitated others, that they have caſt away all deſign, or loſt all poſſibility of giving any ſatisfaction.

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As to what reſpects our own Caſe more particularly, We muſt do the Commiſſioners that right as to confeſs that there hath not been within the memory of Man ſo frequent and diligent ſitting, as hath been day by day upon this Statute; and that We do ſuppoſe them all to be Perſons of that worth as to act above the conſideration of their Salaries, as howſoever that allowance is but due for their pains, and no more than neceſſary for the honour of their employment.

But withal it muſt be alſo acknowledged that their ſo conſtant ſitting hath occaſioned ſo much greater Expence out of the Creditors Eſtate; and that although to hold the Creditors on, to purſue the Statute, and off from Agreement to our Propoſal, there hath been a pretence of mighty Diſcoveries, Yet in truth they have not in this five Months time found out in all, beſides our Wives Jointures, ſo much as will probably defray the Law-Charges, in trying to poſſeſs the Creditors of what the Eſtate hath no Title to.

But becauſe it may be retorted upon us, *That all this trouble and expence of the Statute might have been ſpared, had We from the firſt dealt clearly, and not conceal'd our Eſtates, our Books, and our Loſſes.* We ſhall therefore ingenuouſly give accouut of the Reaſon, and we hope Reaſonableneſs of all our Doings in thoſe three Particulars, in the ſame order. But if we have either in whole or in part therein erred, We ſhall confeſs it,

ask

ask Pardon, and do our beſt to redreſs it.

As to that firſt of *Concealing the Eſtate*, We have in the former part of this *Narrative* repreſented the Cauſes that led to our Departure, which when we ſaw to be unavoidable, like Men rather to die than live, We ſet our Houſe in order, We looked upon the ſad reſidue of our broken Fortunes as a Legacy to *Weſtminſter-Hall*, and would be all ſpent at the Barr, unleſs We our ſelves ſecured it for the Creditors. For if while We were yet living, till the Ninth of *March* 1675, and when We lay gaſping till the 15th of *June* 1677, Men nevertheleſs rent the whole Eſtate piecemeal before our faces, and every one was making up his own Pack, there could nothing be expected among them, after We ſhould be civilly dead (for ſo it is with Us) but the greateſt Diſorder and Confuſion. We therefore conſidered further, that although we ſhould be at great loſs in fixing or recalling the diſtracted and diſperſed Eſtate, yet it would be more valuable, and turn even ſo to the Creditors better account, than if they were left to rifle for it in our Scritours, or Warehouſes.

Hence it was that whilſt We were yet of a diſpoſing mind, and before We ſhould be buried in a perpetual Priſon, We choſe, as the diſcreeteſt way, and the honeſteſt in our deplorable Circumſtances, to recollect as We could the ſcattered Eſtate, and having truly com-

puted

puted it, to diſtribute it equally as far as it was capable, which We have accordingly offered in our humble Propoſal.

And for what concerns the ſecond Objection againſt us, *the concealing of our Books*, being much of the ſame nature with the former, We ſhall for further ſatisfaction in them both, appeal to any Conſidering Perſon diſintereſſed, or to the Conſcience of any of our Worthy Creditors, *Whether We could indeed, or ought in this to have done otherwiſe?* For, ſuppoſing our Books to contain the ſubſtance and ſum of the Eſtate: The delivery of them could only be required in order to diſcovery wherein it conſiſted, and how or where it was diſpoſed; and that diſcovery, to the end that the Creditors might themſelves collect it in, and recover it; and it was and is indifferent to Us whether they pleaſed to do ſo, or to accept of our humble Propoſal, ſo that We might either one way or the other come to an end with them. But therefore We humbly propoſe theſe *Queries*.

Firſt, (in that general ſuſpicion which the Creditors have conceived, and do all along continue and ſtill propagate (though contrary to their own Intereſt, and in prejudice both to the *extrinſick* and *intrinſick* value of the remaining Eſtate) concerning Us and our Actings) Whether they would have admitted thoſe Books (when, or if produced) as true, authentick, and which they

they would reſt by; before that they had made experiment on each particular Article relating to our Negotiations both at Home and in Foreign parts. If (as is probable) they ſhould not, but either all, or moſt, or ſome of them, reſolve to ſuſpect the Books, though never ſo exactly or faithfully kept, what nearer ſhould We have been to a Concluſion with the Creditors notwithſtanding the Delivery? For (which puts all upon a ſhort Iſſue) We will humbly demand once more, *Whether upon ſurrendring up our Books to them, would they at the ſame time have delivered us our Bonds, and diſcharged us?* We preſume, until better informed, that whatſoever any good Man might undertake in his own particular, yet that none will affirm it for ſo numerous a Body, with ſo many Minds as that of the Creditors. And therefore We leave it to any rational Man to judge, *Whether* (unleſs all of them joyn'd in ſo doing) *it were proper, juſt, or feaſible for us at once to diveſt our ſelves of the whole Eſtate by delivering up our Books, and to make our ſelves at the ſame time liable for the whole Eſtate, our Bonds remaining uncancell'd?*

There is a third Clamour againſt us, and not without Reaſon until it be anſwered, about the *Concealment of our Loſſes.*

To this We ſay, That they were communicated early (as well as the Caſe) to ſome of our Creditors, and of the moſt active in the Statute.

Secondly, That as in the former part of our Caſe We had declared, *that the Loſſes we had ſuſtained, and muſt ſtill foreſee, were ſuch as We could yet ſcarce our ſelves believe, and therefore forbore as then to mention.*

So after We came on Review to diſcern them more evidently, We were indeed aſhamed, as in an undecent Nakedneſs to make them very publick.

But laſtly, finding that this was in common diſcourſe ſo much inſiſted on againſt us, We have cauſed Copies of them ſome while ago to be delivered to the Commiſſioners, and among the Body of the Creditors; by which, and the further Teſtimony (if required) of our Book-keepers, it may and hath appeared that We have had no leſs than 90000 *l.* Loſs: a Terrible Sum indeed! but the greateſt part of which Dammage we owe to that infortunate Importunity of ſome Creditors. But We hope that now ſuch of them as have been pleaſed to inveigh againſt us themſelves, and to provoke others upon that ſingle ſuggeſtion, of not having made out our Loſſes, will hence-forward abate that onely pretence for their Severity, and for their ſuſpicion of our Diſhoneſty.

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And indeed although We are as capable (if not more) of committing Indiſcretions as any man, and ſhall for ever be ſenſible of that Remarkable One in our firſt entring into ſuch a Society; Yet ſhall no Man diſprove, though it is in every one's power to blemiſh the Uprightneſs of our Intentions.

Have We not paid out above 100000 *l.* ſince *Michaelmas* 1675? Had We not Underſtanding and Opportunity ſufficient (had our Malice been equal to theirs who ſuggeſt ſo ill things of us) to have gone off in the height of our Caſh and Reputation? Did We uſe any indirect means to ſollicite Mens Money into our management? If they were unadviſed in offering, or we in receiving it, Yet did not our Miſcarrying eminently proceed from their greater Raſhneſs in calling it out again in ſo violent a manner? Have we not nevertheleſs in this loweſt Ebb of Humane Condition propoſed to them Six ſhillings and eight-pence *per* pound, which We are ſtill ready to perform if it may be accepted, *viz.* One Moyety immediately after Subſcription, and Security for the Remainder at the times aforeſaid?

And there is yet one more pregnant Inducement to perſwade them both of our Integrity, and to enter-

tain this Motion, which is, That comparing the Sum of the Eſtate when the Books were firſt viſited by the Creditors, being about 175000 *l.* and the account of our Payments ſince being about 50000 *l.* with the Catalogue of our Loſſes, being about 90000 *l.* it appears plainly that this Third Part humbly offered by Us, is the Total of what doth or can remain for Satisfaction.

And therefore howſoever it ſhall pleaſe God to diſpoſe and encline the Minds of our worthy Creditors, yet we ſhall have this Comfort within our own Conſciences, that we have for their ſake been willing to have ſacrificed Our ſelves up to an honeſt Poverty.

Yet neither do we deſpair but that thoſe honourable and worthy Perſons will take the whole matter into their ſerious Conſideration, and that they will firſt in their great Prudence reflect upon the devouring nature of ſuch Statutes, whereof, beſides many other Inſtances, Sir *Anthony Bateman* and his Brothers Caſe is a pregnant evidence, Who having at firſt offered Eight ſhillings *per* pound Compoſition for his own Debt, and Seven and ſix-pence *per* pound for thoſe Debts which He together with his Brothers were involved in; Yet the Statute hath been carried on about theſe Ten Years at the ex-

pence

pence and loſs of about 10000*l.* out of the Eſtate, and yet but one Twelve-pence *per* pound divided amongſt the Creditors, the Contribution-money deducted.

That next of all, our Creditors will alſo exerciſe their Chriſtian Pitty, if not to Us and four numerous Families, yet to ſo many Poor Perſons, whoſe Bread we are enforced to feed on; and the moſt, if not the whole of whoſe Livelihood, depends upon the Acceptance of this Propoſal.

And therefore in Concluſion we beſeech them, that in right to themſelves, they will make Us ſo far Honeſt Men as to receive all that we can give, before any further unavoidable Expences and unforeſeen Accidents (common to Humane Affairs) may concur to deprive Them and Us of the fruits of our Juſt Intentions. And by this Paper We deſire to ſtand or fall, but not to be judged by any looſe words, or caſual diſcourſes.

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*FINIS.*

BRITISH MUSEUM

THE

# Pre-eminence

AND

# PEDIGREE

OF

# PARLIAMENT.

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By *James Howell*, Esquire.

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*Licens'd and Entred according to Order.*

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*LONDON*,

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BRITISH MUSEUM

# THE PRE-EMINENCE OF PARLIAMENT.

## *Sectio Prima.*

I Am a free-born *Subject* of the Realm of *England*; whereby I claim as my native Inheritance, an undoubted right, propriety, and portion in the Laws of the Land; And this diſtinguiſheth me from a *Slave.* I claim alſo an intereſt and common right in the High National Court of *Parliament*, and in the Power, the Priviledges and Jurisdiction thereof, which I put in equal balance with the *Laws*, in regard it is the *Fountain whence they ſpring*; And this I hold alſo to be a principal part of my Birth-right: which great Council I honour, reſpect, value, and love in as high a degree as can be; as being the *Bulwark of our Liberties, the main boundary and bank which keeps us from ſlavery, from the inundations of tyrannical Rule, and unbounded Will-government.* And I hold my ſelf obliged in a tye of indiſpenſable obedience, to conform and ſubmit my ſelf to whatſoever ſhall be tranſacted, concluded and conſtituted by its Authority

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in *Church* or *State*; whether it be by making, enlarging, altering, diminiſhing, diſannulling, repealing, or reviving of any Law, Statute, Act, or Ordinance whatſoever, either touching matters Eccleſiaſtical, Civil, Common, Capital, Criminal, Martial, Maritime, Municipal, or any other; of all which, the tranſcendent and uncontroulable Jurisdiction of that Court is capable to take cognizance.

Amongſt the three things which the *Athenian* Captain thank'd the gods for, one was, That he was born a *Grecian*, and not a *Barbarian*. For ſuch was the vanity of the *Greeks*, and after them, of the *Romans*, in the flouriſh of their Monarchy, to arrogate all civility to themſelves, and to term all the world beſides *Barbarians*: So I may ſay, to have cauſe to rejoyce, that I was born a vaſſal to the Crown of *England*; that I was born under ſo well moulded and tempered a Government, which endows the Subject with ſuch Liberties and Infranchiſements that bear up his natural courage, and keep him ſtill in heart; ſuch Liberties that fence and ſecure him eternally from the gripes and tallons of *Tyranny*. And all this may be imputed to the Authority and Wiſdom of this High Court of *Parliament*, wherein there is ſuch a rare co-ordination of power (though the Soveraignty remain ſtill entire, and untransferable in the perſon of the Prince) there is, I ſay, ſuch a ſweet commixture 'twixt *Monarchy*, *Optimacy*, and *Democracy*; 'twixt Prince, Peers, and Communalty, during the time of conſultation, that of ſo many diſtinct parts, by a rare co-operation and unanimity, they make but one *Body Politick*, (like that Sheaf of Arrows in the Emblem) one entire concentrick piece; and the Reſults of their deliberations, but as ſo many harmonious diſpoſitions ariſing from different ſtrings. And

what

what greater immunity and happineſs can there be to a People, than to be liable to no Laws but what they make themſelves? To be ſubject to no Contribution, Aſſeſſement,or any pecuniar levyy whatſoever,but what they Vote, and voluntarily yield unto themſelves: For in this compacted *Politic Body*, there be all degrees of people repreſented; both the Mechanick, Tradeſman, Merchant, and Yeoman, have their incluſive Vote, as well as the Gentry, in the perſons of their Truſtees, their Knights and Burgeſſes, in paſſing of all things. Nor is this Soveraign Surintendent Council an Epitome of this Kingdom only, but it may be ſaid to have a repreſentation of the whole Univerſe; as I heard a fluent well-worded *Knight* deliver the laſt *Parliament*, who compared the beautiful compoſure of that High Court, to the great Work of God, the World it ſelf: The King is as the Sun, the Nobles the fixed Stars, the Itinerant Judges and other Officers (that go upon Meſſages 'twixt both Houſes) to the Planets; the Clergy to the Element of fire; the Commons, to the ſolid *Body* of Earth, and the reſt of the Elements. And to purſue this compariſon a little farther; as the heavenly Bodies, when three of them meet in *Conjunction*, do uſe to produce ſome admirable effects in the Elementary World: So when theſe *three States* convene and aſſemble in one ſolemn great *Junta*, ſome notable and extraordinary things are brought forth, tending to the welfare of the whole Kingdom, our *Microcoſm*.

HE that is never ſo little verſed in the Annals of this Iſle, will find that it hath been her fate to be four times *conquered*. I exclude the *Scot*; for the ſituation of his Countrey, and the quality of the Clime

Clime, hath been ſuch an advantage and ſecurity to him, that neither the *Roman Eagles* would flye thither for fear of Freezing their Wings; nor any other nation attempt the Work.

Theſe ſo many Conqueſts muſt needs bring with them many tumblings and toſſings, many diſturbances and changes in Government; yet I have obſerved, that notwithſtanding theſe tumblings, it retained ſtill the form of a *Monarchy*, and ſomething there was always that had Analogy with the great Aſſembly the *Parliament*.

The firſt Conqueſt I find was made by *Claudius Cæſar*; at which time (as ſome well obſerve) the *Roman Enſigns*, and the *Standard of Chriſt* came in together. It is well known what Laws the *Roman* had; He had his *Comitia*, which bore a reſemblance with our Convention in *Parliament*; the place of their meeting was called *Prætorium*, and the Laws which they enacted, *Plebeſcita*

The *Saxon* Conqueſt ſucceeded next, which were the *Engliſh*, there being no name in *Welſh* or *Iriſh* for an *Engliſhman*, but *Saxon*, to this day. They governed by *Parliament*, though it were under other names; as *Michel Sinoth*, *Michel Gemote*, and *Witenage Mote*.

There are Records above a thouſand years old, of theſe *Parliaments*, in the Reigns of King *Ina*, *Offa*, *Ethelbert*, and the reſt of the ſeven Kings during the *Heptarchy*. the *Britiſh* Kings alſo, who retain'd a great while ſome part of the Iſle unconquered, governed and made Laws by a kind of *Parliamentary* way; witneſs the famous Laws of Prince *Howel*, called *Howel Dha*, (the good Prince *Howel*) whereof there are yet extant ſome Welſh Records. *Parliaments* were alſo

uſed

uſed after the *Heptarchy* by King *Kenulphus*, *Alphred*, and others; witneſs that renowned *Parliament* held at *Grately* by King *Athelſton*.

The third Conqueſt was by the *Danes*, and they govern'd alſo by ſuch general Aſſemblies, (as they do to this day) witneſs that great and ſo much celebrated *Parliament* held by that mighty Monarch *Canutus*, who was King of *England*, *Denmark*, *Norway*, and other Regions, 150 years before the compiling of *Magna Charta*; and this the learned in the Laws do hold to be one of the ſpecial'ſt, and moſt authentick pieces of Antiquity we have extant. *Edward* the Confeſſor made all his Laws thus, (and he was a great *Legiſlator*), which the *Norman* Conqueror (who liking none of his Sons, made God Almighty his heir, bequeathing unto him this Iſland for a Legacy) did ratifie and eſtabliſh, and digeſted them into one entire methodical Syſtem, which being violated by *Rufus*, (who came to ſuch a diſaſtrous end, as to be ſhot to death in lieu of a *Buck* for his ſacriledges) were reſtor'd by *Henry* the firſt, and ſo they continued in force till King *John*, whoſe Reign is renowned for firſt confirming *Magna Charta*, the foundation of our Liberties ever ſince: Which may be compar'd to divers *Outlandiſh Graffs ſet upon our Engliſh ſtock*; *or to a Poſie of ſundry fragrant flowers*; for the choiceſt of the *Britiſh*, the *Roman*, *Saxon*, *Daniſh*, and *Norman* Laws, being cull'd and pick'd out, and gathered as it were into one bundle, out of them the foreſaid *Grand Charter* was extracted: And the eſtabliſhment of this great Charter was the work of a *Parliament*.

Nor are the Laws of *this Iſland* only, and the freedom of the Subject, conſerved by *Parliament*; but all the beſt policed Countreys of *Europe* have the like:

The *Germans* have their *Diets*, the *Danes* and *Swedes* their *Riicks Dachs*; the *Spaniard* calls his *Parliament*, *Las Cortes*, and the *French* have (or ſhould have at leaſt) their *Aſſembly of three States*, though it be grown now in a manner obſolete, becauſe the Authority thereof was (by accident) devolv'd to the *King*. And very remarkable it is, how this happened; for when the *Engliſh* had taken ſuch large footing in moſt parts of *France*, having advanced as far as *Orleans*, and driven their then King *Charles* the ſeventh to *Bourges* in *Berry*; the *Aſſembly of the three States* in theſe preſſures, being not able to meet after the uſual manner in full *Parliament*, becauſe the Countrey was unpaſſable, the enemy having made ſuch firm invaſions up and down through the very bowels of the Kingdom; that power which formerly was inherent in the *Parliamentary Aſſembly*, of making Laws, of aſſeſſing the Subject with Taxes, ſubſidiary levies, and other impoſitions, was tranſmitted to the *King* during the War; which continuing many years, that intruſted power by length of time grew as it were habitual in him, and could never after be re-aſſumed and taken from him; ſo that ever ſince, his *Edicts* countervail *Acts* of *Parliament*: And that which made the buſineſs more feaſable for the *King*, was, that the burthen fell moſt upon the Communalty, (the Clergy and Nobility not feeling the weight of it) who were willing to ſee the *Peaſeant* pull'd down a little, becauſe not many years before in that notable Rebellion, call'd *La Jaquerie, de Beauvoſin*, which was ſuppreſſed by *Charles* the *Wiſe*; the common people put themſelves boldly in Arms againſt the Nobility and Gentry, to leſſen their power. Add hereunto as an advantage to the work, that the next ſucceeding King *Lewis the Eleventh*, was

was a cloſe cunning Prince, and could well tell how to play his game, and draw water to his own Mill; For amongſt all the reſt, he was ſaid to be the firſt that put the Kings of *France*, *hors de page*, out of their minority, or from being *Pages* any more, though thereby he brought the poor *Peaſeants* to be worſe than *Lacquies*.

With the fall, or at leaſt the diſcountenance of that uſual *Parliamentary Aſſembly* of the *three States*, the liberty of the *French* Nation utterly fell; the poor *Roturier* and Vineyard-man, with the reſt of the Yeomanry, being reduced ever ſince to ſuch an abject *aſinin* condition, that *they ſerve but as ſponges for the King to ſqueeze when he liſt*. Nevertheleſs, as that *King* hath an advantage hereby one way, to *Monarchize* more abſolutely, and never to want money, but to *ballaſt his Purſe* when he will: ſo there is another mighty inconvenience ariſeth to him and his whole Kingdom another way; for this illegal peeling of the poor *Peaſeant* hath ſo dejected him, and cowed his native courage ſo much by the ſenſe of poverty (*which brings along with it a narrowneſs of ſoul*) that he is little uſeful for the War: which puts the *French* King to make other Nations mercenary to him, to fill up his *Infantry*; Inſomuch, that the Kingdom of *France* may be not unfitly compared to a body that hath all its blood drawn up into the Arms, Breaſt and Back, and ſcarce any left from the Girdle downwards, to cheriſh and bear up the lower parts, and keep them from ſtarving.

All this ſeriouſly conſidered, there cannot be a more proper and pregnant example than this of our *next Neighbours*, to prove how infinitely neceſſary the *Parliament* is, to aſſert, to prop up, and preſerve the Publick Li-

berty, and National Rights of a people, with the incolumity and welfare of a Countrey.

Nor doth the *Subject* only reap benefit thus by *Parliament*, but the *Prince* (if it be well conſider'd) hath equal advantage thereby; It rendreth him a King of *free* and *able* men, which is far more glorious than to be a King of *Slaves*, *Beggars*, and *Bankrupts*; Men that by their freedom, and competency of wealth, are kept ſtill in heart to do him ſervice againſt any forrain force. And it is a true maxime in all States, that 'tis leſs danger and diſhonour for the Prince to be poor, than his people: Rich Subjects can make their King rich when they pleaſe; if he gain their hearts, he will quickly get their purſes. *Parliament* increaſeth love and good intelligence 'twixt him and his people; it acquaints him with the reality of things, and with the true ſtate and diſeaſes of his Kidgdom; it brings him to the knowledg of his better ſort of Subjects, and of their abilities, which he may employ accordingly upon all occaſions; it provides for his Royal Iſſue, pays his debts, finds means to fill his Coffers: and it is no ill obſervation, The *Parliamentary-moneys* (the *great Aid*) have proſpered beſt with the Kings of *England*; it exceedingly raiſeth his repute abroad, and enableth him to keep his *foes in fear*, *his Subjects in awe*, *his Neighbours and Confederates in ſecurity*, the three main things which go to aggrandize a Prince, and render him glorious. In ſum, it is the *Parliament* that ſupports, and bears up the honour of his Crown, and ſettles his Throne in ſafety, which is the chief end of all their conſultations: For whoſoever is entruſted to be a Member of this High Court, carrieth with him a double capacity; he ſits there as a *Patriot*, and as a *Subject*: As he is the one, the Countrey is his object, his duty being

to

to vindicate the Publick Liberty, to make wholſome Laws, to put his hand to the pump, and ſtop the leaks of the great Veſſel of the State; to pry into, and puniſh corruption and oppreſſion; to improve and advance Trade; to have the grievances of the place he ſerves for redreſſed, and caſt about how to find ſomething that may tend to the advantage of it.

But he muſt not forget that he ſits there alſo as a *Subject*, and according to that capacity, he muſt apply himſelf to do his *Soveraigns* buſineſs, to provide not only for his *publick*, but his *perſonal* wants; to bear up the luſter and glory of his *Court*; to conſider what occaſions of extraordinary expences he may have, by encreaſe of Royal Iſſue, or maintenance of any of them abroad; to enable him to vindicate any affront or indignity that might be offered to his Perſon, Crown, or Dignity, by any *Foreign* State or Kingdom; to conſult what may enlarge his *honour*, *contentment*, and *pleaſure*. And as the *French Tacitus* (*Comines*) hath it, The *Engliſh* Nation was uſed to be more forward and zealous in this particular than any other; according to that ancient eloquent ſpeech of a great *Lawyer*, *Domus Regis vigilia defendit omnium, otium illius labor omnium, deliciæ illius induſtria omnium, vacatio illius occupatio omnium, ſalus illius periculum omnium, honor illius objectum omnium.* Every one ſhould ſtand Centinel to defend the Kings Houſes; his *ſafety* ſhould be the *danger* of all, his *pleaſures* the *induſtry* of all, his *eaſe* ſhould be the *labour* of all, his *honour* the *object* of all.

Out of theſe premiſſes this Concluſion may be eaſily deduced, that, *The principal Fountain whence the King derives his happineſs and ſafety, is his Parliament*; It is that great Conduit-Pipe which conveighs unto him his

his peoples bounty and gratitude; the trueſt Looking-Glaſs wherein he diſcerns their loves; now *the Subjects love hath been always accounted the prime Cittadel of a Prince.* In his *Parliament* he appears as the Sun in the Meridian, in the altitude of his glory, *in his higheſt State Royal*, as the Law tells us.

Therefore whoſoever is averſe or diſaffected to this Soveraign Law-making Court, cannot have his heart well planted within him: He can be neither good *Subject*, nor good *Patriot*; and therefore unworthy to breathe *Engliſh* air, or have any benefit, advantage, or protection from the Laws.

## *Sectio Secundo.*

BY that which hath been ſpoken, *which is the language of my heart*, I hope no indifferent Judicious Reader will doubt of the cordial affection, of the high reſpects and due reverence I bear to *Parliament*, as being the wholſomeſt conſtitution, (and done by the higheſt and happieſt reach of policy) that ever was eſtabliſhed in this *Iſland*, to perpetuate the happineſs thereof: Therefore I muſt tell that *Gentleman*, who was Author of a Book entituled, *The Popiſh Royal Favourite*, (lately Printed and expoſed to the world) that he offers me very hard meaſure; nay, he doth me apparant wrong, to term me therein, *No friend to Parliament, and a Malignant*; A character, which as I *deſerve* it not, ſo I *diſdain* it.

For the firſt part of his charge, I would have him know, that I am as much a *friend*, *and as real an affectionate humble ſervant and votary* to the *Parliament*, as poſſibly he can be; and will live and die with theſe affeons about me: And I could wiſh, that he were Secretary of my thoughts a while; or if I may take the boldneſs

to

to apply that compariſon His late Majeſty uſed in a famous ſpeech to one of his *Parliaments*, I could wiſh there were a Cryſtal Window in my Breſt, through which the World might eſpy the inward motions and palpitations of my heart; then would he be certified of the ſincerity of this Proteſtation.

For the ſecond part of his charge, to be a *Malignant*, I muſt confeſs to have ſome *Malignity* that lurks within me, much againſt my will; but it is no *malignity* of *mind*, it is amongſt the *humours*, not in my *intellectuals*. And I believe, there is no natural man, let him have his *humours* never ſo well balanced, but hath ſome of this *malignity* reigning within him; For as long as we are compoſed of the four *Elements*, whence theſe *humors* are derived, and with whom they ſymbolize in qualities; which *Elements* the Philoſophers hold to be in a reſtleſs contention amongſt themſelves (and the Stoick thought that the world ſubſiſted by this innated mutual ſtrife); as long, I ſay, as the four *humors*, in imitation of their principles (the *Elements*) are in perpetual reluctancy, and combate for prædominancy, there muſt be ſome *malignity* lodg'd within us, as aduſted choler, and the like; whereof I had late experience, in a dangerous fit of ſickneſs it pleaſed God to lay upon me, which the Phyſicians told me proceeded from the *malignant* hypocondriacal effects of *Melancholy*; having been ſo long in this *Saturnine* black condition of cloſe impriſonment, and buried alive between the Walls of this fatal *Fleet*. Theſe kinds of *malignities*, I confeſs are very rife in me, and they are not only incident, but connatural to every man according to his complexion: And were it not for this inceſſant ſtrugling and enmity amongſt the *humors* for maſtery, which produceth ſuch *malignant* effects in us, our ſouls would be loth ever to depart from our bodies, or to abandon this manſion of clay. Now

Now what *malignity* my *Accuſer* means, I know not; if he means *malignity of ſpirit*, as ſome antipathy or ill impreſſion upon the mind, ariſing from diſaffection, hatred, or rancor, with a deſire of ſome deſtructive revenge, he is mightily deceiv'd in me; I *malign* or hate no Creature that ever God made, but the *Devil*, who is the Author of all *malignity*; and therefore is moſt commonly called in French, *le Malin Aſprit*, the *malignant ſpirit*. Every night before I go to bed, I have the grace, I thank God for it, to forgive all the world, and not to harbour, or let rooſt in my boſom the leaſt *malignant* thought; yet none can deny, but the aſperſions which this my *Accuſer* caſts upon me, were enough to make me a *malignant* towards him; yet it could never have the power to do it: For I have prevail'd with my ſelf to forgive him this his wrong cenſure of me, iſſuing rather from his *not-knowledg* of me, than from *malice*; for we never mingled ſpeech, or ſaw one another in our lives, to my remembrance: which makes me wonder the more, that a Profeſſor of the *Law*, as he is, ſhould pronounce ſuch a poſitive ſentence againſt me ſo ſlightly. But methinks I over-hear him ſay, That the precedent diſcourſe of Parliament is involv'd in Generals; and the Tropick Axiome tells us, that *Dolus verſatur in univerſalibus*, there is double dealing in Univerſals: His meaning is, that I am no friend to this preſent Parliament, (though he ſpeaks in the Plural number Parliaments) and conſequently, he concludes me a *Malignant*: Therein, I muſt tell him alſo, that I am traduc'd, and I am confident it will be never prov'd againſt me, from any *actions*, *words*, or *letters*, (though divers of mine have been intercepted) or any other miſdemeanor, though ſome things are father'd upon me which never dropt from my quill. Alas, how unworthy and uncapable am I to cenſure the proceedings

ceedings of that great *Senate*, that high *Synedrion*, wherein the wiſdom of the whole State is epitomized? It were a preſumption in me, of the higheſt nature that could be: It is enough for me to pray for the proſperous ſucceſs of their conſultations: And as I hold it my *duty*, ſo I have good *reaſon* ſo to do, in regard I am to have my ſhare in the happineſs.; And could the utmoſt of my poor endeavours, by any miniſterial humble office (and ſometimes the meaneſt *Boat-ſwain* may help to preſerve the Ship from ſinking) be ſo happy, as to contribute any thing to advance that great work (which I am in deſpair to do, while I am thus under *Hatches* in this *Fleet*), I would eſteem it the greateſt honour that poſſibly could befall me; as I hold it now to be my greateſt diſaſter, to have faln ſo heavily under an affliction of this nature, & to be made a ſacrifice to *publick fame*, than which there is no other proof, nor *that* yet urg'd againſt me, or any thing elſe produc'd after ſo long, ſo long captivity, which hath brought me to ſuch a low ebb, and put me ſo far behind in the courſe of my poor fortunes, and indeed more than half undone me. For although my whole life (ſince I was left to my ſelf to *ſwim*, as they ſay, *without bladders*) has been nothing elſe but a continued ſucceſſion of croſſes, and that there are but few red letters found (God wot) in the Almanack of my Age (for which I account not my ſelf a whit the leſs *happy*); yet This croſs has carried with it a greater weight, it hath been of a larger extent, longer continuance, and lighted heavier upon me than any other; and as I have *preſent patience* to bear it, ſo I hope for *ſubſequent grace* to make uſe of it accordingly, that my old Motto may be ſtill confirmed, παθήματα, μαθήματα.

HE produceth my atteſtation for ſome paſſages in *Spain*, at His Majeſties being there; and he quotes

me right, which obligeth me to him: And I hope all his quotations, wherein he is ſo extraordinarily copious and elaborate in all his works, are ſo; yet I muſt tell him, that thoſe interchangeable Letters which paſſed between His Majeſty and the *Pope*, which were originally couch'd in *Latin*, the language wherein all Nations treat with *Rome*, and the *Empire* with all the Princes thereof; thoſe Letters, I ſay, are adulterated in many places, which I impute not to him, but to the *French Chronicler*, from whom he took them in truſt. The truth of that buſineſs is this; The world knows there was a tedious treaty of an Alliance 'twixt the Infanta *Dona Maria* (who now is *Empreſs*) and His Majeſty, which in regard of the ſlow affected pace of the *Spaniard*, laſted about ten years, as that in *Henry* the ſeventh's time, 'twixt Prince *Arthur* and (afterwards) Queen *Katharine*, was ſpun out above *ſeven*: To quicken, or rather to *conſummate* the work; His Majeſty made that adventurous journey through the whole Continent of *France*, into *Spain*; which voyage, though there was a great deal of gallantry in it, (whereof all poſterity will ring, until it turn at laſt to a *Romance*) yet it prov'd the bane of the buſineſs, which 'tis not the Errand of ſo poor a Pamphlet as this to unfold. His Majeſty being there arriv'd, the ignorant common people cryed out, the *Prince* of of *Wales* came thither to make himſelf a Chriſtian. The *Pope* writ to the *Inquiſitor General*, and others, to uſe all induſtry they could to reduce him to the *Roman* Religion; And one of *Olivares* firſt complements to him, was, *That he doubted not but that His Highneſs came thither to change his Religion*: whereunto he made a ſhort anſwer, *That He came not thither for a Religion, but for a Wife.* There were extraordinary proceſſions made, and other artifices us'd by protraction of things, to make him ſtay there of purpoſe

till

till the Spring following, to work upon him the better : And the *Infanta* her ſelf deſir'd him ( which was eſteem'd the greateſt favour he received from her all the while ) to viſit the *Nun of Carion* ; hoping that the ſaid Nun, who was ſo much cryed up for miracles, might have wrought one upon him ; but her Art failed her : nor was His Highneſs ſo weak a ſubject to work upon, according to His late Majeſties ſpeech to Doctor *Mawe* and *Wren* : who when they came to kiſs his hands, before they went to *Spain* to attend the Prince their Maſter, *He wiſhed them to have a care of* Buckingham ; *as touching his Son* Charles, *he apprehended no fear at all of him* ; *for he knew him to be ſo well grounded a* Proteſtant, *that nothing could ſhake him in his Religion.* The *Arabian* Proverb is, That the Sun never ſoils in his paſſage, though his beams reverberate never ſo ſtrongly, and dwell never ſo long upon the Myry lake of *Mæotis*, the black Turf'd Moors of *Holland*, the Aguiſh Wooſe of *Kent* and *Eſſex*, or any other place, be it never ſo dirty : Though *Spain* be a hot Countrey, yet one may paſs and repaſs through the very Center of it, and never be Sun-burnt, if he carry with him a *Bongrace* , and ſuch a one His Majeſty had.

Well, after His Majeſties arrival to *Madrid*, the treaty of Marriage went on ſtill ( though he told them at his firſt coming, that he came not thither like an *Ambaſſadour*, to treat of Marriage ; but as a *Prince*, to fetch home a Wife ) ; and in regard they were of diſferent Religions, it could not be done without a diſpenſation from the *Pope*, and the *Pope* would grant none, unleſs ſome Capitulations were ſtipulated in favour of the Romiſh Catholicks in *England* ( the ſame in ſubſtance were agreed on with *France* ). Well, when the diſpenſation came, which was negotiated ſolely by the

King of *Spains* Miniſters; becauſe His Majeſty would have as little to do as might be with *Rome*, Pope *Gregory* the fifteenth, who died a little after, ſent His Majeſty a Letter, which was delivered by the *Nuncio*, whereof an anſwer was ſent a while after: Which Letters were imprinted and expoſed to the view of the world, becauſe His Majeſty would not have people whiſper, that the buſineſs was carried in a clandeſtine manner. And truly, beſides this, I do not know of any Letter, or Meſſage, or Complement, that ever paſs'd 'twixt His Majeſty and the *Pope*, afore or after; ſome addreſſes peradventure might be made to the Cardinals, to whom the drawing of thoſe Matrimonial diſpatches was referred, to quicken the work; but this was only by way of civil Negotiation.

Now touching that *reſponſory* Letter from His Majeſty, it was no other than a Complement in the ſevereſt interpretation; and ſuch formalities paſs 'twixt the Crown of *England* and the great *Turk*, and divers Heathen Princes. The *Pope* writ firſt, and no man can deny, but by all Moral rules, and in common humane civility, His Majeſty was bound to anſwer it, ſpecially conſidering how punctual they are in thoſe Countries to correſpond in this kind, how exact they are in repairing viſits, and the performance of ſuch Ceremonies: And had this compliance been omitted, it might have made very ill impreſſions, as the poſture of things ſtood then; for it had prejudiced the great work in hand. I mean the *Match*, which was then in the heat and height of agitation: His Majeſties perſon was there engag'd, and ſo it was no time to give the leaſt offence. They that are never ſo little vers'd in buſineſs abroad, do know that there muſt be addreſſes, compliances, and formalities of this nature (according to the *Italian* Proverb, *That one muſt*

*ſome-*

*ſometimes light a candle to the Devil)* us'd in the carriage of matters of State, as this great buſineſs was, whereon the eyes of all Chriſtendom were ſo greedily fixt; a buſineſs which was like to bring with it ſuch an univerſal good, as the reſtitution of the *Palatinate*, the quenching of thoſe hideous fires in *Germany*, and the eſtabliſhing of a peace through all the Chriſtian World.

I hope none will take offence, that in this particular which comes within the compaſs of my knowledg, being upon the Stage when this Scene was acted, I do this right to the *King* my Maſter, in diſplaying the *Truth*, and putting her forth in her own colours: a rare thing in theſe days.

TOuching the *Vocal Foreſt*, an Allegorical Diſcourſe, that goes abroad under my name, a good while before the beginning of this *Parliament*, which this *Gentleman* cites (and that very faithfully) I underſtand there be ſome that mutter at certain paſſages therein, by putting ill gloſſes upon the Text, and taking with the *left* hand, what I offer with the *right*: (Nor is it a wonder for Trees which lie open, and ſtand expoſed to all weathers, to be nipt) But I deſire this favour, which in *common* juſtice I am ſure in the Court of *Chancery* cannot be denied me, it being the priviledg of every Author, and a received maxim through the World, *Cujus eſt condere, ejus eſt interpretari*; I ſay, I crave this favour, to have leave to expound my own Text, and I doubt not then but to rectifie any one in his opinion of me, and that in lieu of the *Plumbs which I give him from thoſe Trees, he will not throw the ſtones at me.*

Moreover, I deſire thoſe that are over-critical Cenſurers of that Piece, to know, that as in Divinity it is a rule, *Scriptura parabolica non eſt argumentativa*; ſo it is

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in all other kind of knowledg. *Parables* (whereof that Diſcourſe is compoſed) *though preſſed never ſo hard, prove nothing.* There is another *Rule* alſo, That *Parables* muſt be gently uſed, like a Nurſes Breaſt; which if you preſs too hard, you ſhall have *blood* inſtead of *milk*.

But as the Author of the *Vocal Foreſt* thinks he hath done neither his *Country*, nor the *Commonwealth* of *Learning* any prejudice thereby (That *maiden fancy* having received ſo good entertainment and reſpect abroad, as to be tranſlated into divers Languages, and to gain the publick approbation of ſome famous Univerſities); So he makes this humble proteſt unto all the World, that though the deſign of that Diſcourſe was partly *Satyrical* (which peradventure induc'd the Author to ſhrowd it of purpoſe under the ſhadows of *Trees*; and where ſhould Satyrs be, but amongſt Trees?) yet it never entred into his imagination to let fall from him the leaſt thing that might give any offence to the High and Honourable Court of *Parliament*, whereof he had the honour to be once a Member, and hopes he may be thought worthy again: And were he guilty of ſuch an offence, or *piacle* rather, he thinks he ſhould never forgive himſelf, though he were appointed his own Judg. If there occur any paſſage therein, that may admit a hard conſtruction, let the Reader obſerve, That the Author doth not poſitively aſſert, or paſs a judgment on any thing in that Diſcourſe which conſiſts principally of conciſe, curſory narrations, of the choiceſt Occurrences and Criticiſms of State, according as the pulſe of time did beat then: And matters of State, as all other ſublunary things, are ſubject to alterations, contingencies and change, which makes the opinions and minds of men vary accordingly; not one amongſt twenty is the ſame man to day as he was four years ago, in point of judg-

ment,

ment, which turns and alters according to the circumſtance and ſucceſs of things: And it is a true ſaying, whereof we find common experience, *Poſterior dies eſt prioris Magiſter.* The day following is the former days School-maſter. There's another Aphoriſm, *The wiſdom of one day is fooliſhneſs to another*, and 'twill be ſo as long as there is a man left in the World.

I will conclude with this modeſt requeſt to that *Gentleman of the long Robe*; That having unpaſſionately perus'd what I have written in this ſmall *Diſcourſe*, in penning whereof my *Conſcience* guided my *quill* all along as well as my *hand*, he would pleaſe to be ſo charitable and juſt, as to reverſe that harſh ſentence upon me, *To be no Friend to Parliaments, and a Malignant.*

F I N I S.

LONDON

# REASONS

Againſt a

# REGISTRY

FOR

# LANDS, &c.

Shewing briefly,

**The great Diſadvantages, Charges and Inconveniences that may accrue to the whole Nation in general thereby,**

Much over-ballancing

The particular Advantages that are imagined to ariſe therefrom; In anſwer to a late Book Entituled,

*REASONS for a REGISTRY;*

WITH

Some Reaſons for a Regiſtry of Perſonal Contracts, humbly offered to Conſideration.

*LONDON*,

Printed for *C. Wilkinſon*, and *T. Burrel*, at their Shops in *Fleetſtreet*. 1678.

BRITISH MUSEUM

# REASONS
Againſt a
# REGISTRY
FOR
# LANDS,
&c.

HAving ſeriouſly peruſed the Book, bearing the Title of *Reaſons for a Regiſtry*, &c. which ſeemed to me ſomewhat monſtrous; full in the Face, but lean in the Body; ſpeaking great things in the Front, but nothing like it in the ſucceeding Pages. It is a Novel, and ſo may invite many Readers to its peruſal, and it's probable its ſpecious pretences may for a time over-perſwade ſeveral, that it will anſwer the Ends pretended by the Contrivers of it; but I hope cannot ſo far corrupt any under-

ſtanding mans Reaſon, to believe that ſuch great and good effects can proceed from thoſe lame Cauſes that are there aſſerted. In his Preface the Author begins with an Invention of his own, That *becauſe the multiplicity of Frauds, which have been practiſed about Purchaſes and Mortgages for many years laſt paſt, have made men weary of dealing in that Nature; and our preſent Laws being deficient of a Remedy, the miſchief is grown to that height*, &c. *Cujus contrarium Verum eſt*, For ſince that, the Products of Husbandry have had a good Market, and the Banks in *London* not proved ſo ſecure, as ſometimes they were thought to be: Lands in the Country have not only let well to Tenants, but been ſold well to Purchaſers: and more eſpecially, thoſe that are held in Fee ſimple, Lands of Inheritance, and ſuch that are moſt obnoxious to theſe inconveniences, in the *Reaſons for a Regiſtry*, complained of. Scarce any Lands within one hundred miles of *London* offered or known to be ſold, but where there is one Seller, there are two Buyers, and that at as high rates as have been known for theſe forty years: Therefore it doth not appear that the Diſeaſe is ſo great and deſperate, that ſuch a ſtrange, unuſual and dangerous Remedy ſhould be applyed. For in caſe there ſhould in a thouſand ſeveral Eſtates in Fee ſimple, be one incumbred with a concealed Mortgage or Entail, which is the greateſt proportion I am confident any man can imagine there can be: For I my ſelf am acquainted with the Eſtates of ſome hundreds of Perſons near together, and have not for theſe thirty years heard of any ſecret or concealed incumbrance that ever (amongſt them) was ſet up to the detri-

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ment of a Purchaſer: Yet in caſe it ſhould ſo happen, I cannot conceive that to be a ſufficient Reaſon, to make nine hundred ninety and nine other Eſtates ſubject to ſuch great inconveniencies as a Regiſtry will inavoidably produce, for the ſecurity of one only Eſtate.

And where he ſays in the ſame Preface, *that the Advancement of Trade is the great Concern of this Nation*; it's true, but if a Regiſtry produce thoſe effects, that he pretends it will; I hope to convince any rational man, that it will be a greater means to leſſen than advance Trade: Then he ſaith, *That Trade cannot be compleatly advanced, but by eſtabliſhing ſo ſecure a Fund, that Money may be ſafely lent on all neceſſary occaſions, and that no other ſecurity but the Lands of this Nation can eſtabliſh ſuch a Fund.* A very ſtrange *Paradox*, that Country Free-holders Eſtates ſhould be the Fund for the ſecurity of Money for Merchants or Tradeſmen to trade withal, or that Money diſperſed about the Country on Land-ſecurity ſhould advance Trade abroad. Alſo he adds, *That the Lands of this Nation cannot become ſuch a Security, but by a Regiſtry*; which is a very weak aſſertion, unleſs he means that by eſtabliſhing ſuch a Regiſtry, no man will purchaſe Lands, becauſe of the Yoke that will lye upon them, and ſo Free-holders muſt be compelled to Mortgage their Eſtates, to ſupply their Neceſſities, and ſupport their Families: Whereas, now if any that hath an Eſtate, that is in his own power to diſpoſe of (which where it is wanting, I preſume a Regiſter cannot ſupply) he

he may have Chapmen enough at a very good rate, which is much better for the Seller, in caſe he wants Money to trade withal, than to Mortgage the ſame for half the value at Common Intereſt, which with the charges attending will ſoon eat up his Eſtate, if not timely prevented.

In the firſt Page of his Book, the Author in the ſecond Paragraph ſaith, *That where there is no rule of transferring a Property iu any Nation, ſave that of Inheritance or Free-gift, it muſt neceſſarily follow, that nine parts in ten in ſuch a Nation, muſt be but little better than Slaves, and wholly dependent upon the reſt; ſo that let a man be never ſo ingenious and induſtrious, yet if he hath not the good Fortune to be born to an Eſtate, it is great chance if he have opportunity or power of acquiring one.*

By which any one may without all peradventure conclude, that the Author means that there is no ſuch Rule in *England*, unleſs you will ſuppoſe him to be in a Trance, and to conceit himſelf on the other ſide of the Narrow Seas, where it's probable there wants ſuch a Rule, and nine parts in ten may be Slaves there: But here every man that is endowed with Senſe or Reaſon, knows the contrary, *viz.* That all Eſtates in Lands and Tenements, whether Inheritances, or for Lives, or Years, or otherwiſe, are by ſome ways or means transferrable: and it is as evident, that there is no Town in *England* of any conſiderable note, but hath produced in a few years one or more Examples of ingenious and induſtrious Men, that have not had

had the good Fortune to be born to Eſtates, yet nevertheleſs by their Induſtry and Ingenuity acquired conſiderable Eſtates according to their Qualifications, moſt Cities and great Market Towns abounding with ſuch like Preſidents.

After the Author hath briefly diſcourſed of the Advantages which Trade brings to a Nation: In pag. 3. he tells you there are two ſuppoſed principal impediments of Trade; the firſt, want of People, which I am confident cannot be ſupplyed by a Regiſtry, nor that of diſſenters withdrawing their Stocks, which is his ſecond impediment, or rather circumſtance of the decay of Trade. But in pag. 7. he tells you, *That by this means we may probably ſupply thoſe former defects in this Nation*: And firſt, *the want of people: For*, ſaith he, *the unſatiable love of gain will draw people from the ſtrong allurements of their own Native Countries, and that there will need no ſtronger invitation for all ſuch perſons, than by adapting our Laws to the Nature of Trade, and ſerving them in their Purchaſes*, &c. If the Regiſter be to do all this, it will be a noble Regiſter, that muſt make all ſtrangers Free Denizens, ſupplant all Charters that limit and preſcribe Places and Rule for Trade (moſt convenient places for that purpoſe lying under that Government,) and repeal or abrogate the Statute of of *Eliz.* which obligeth all Tradeſmen to ſeven years Apprenticeſhip; or elſe we muſt have greater Priviledges and Immunities granted to Forreigners, than Natives of *England* now enjoy; and all this under the Notion

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of a Regiſter, when in Ttuth did it conſiſt with his Majeſties ſecurity and pleaſure; an Act of Free Denization, (as hath been ſometimes propoſed) and leſſening the power of Corporations in curbing Trade, and repealing that Act of of *Eliz.* would without a Regiſtry invite Strangers to dwell, trade and purchaſe amongſt us; for wanr of which many of the meaner Sort of Forreigners daily come over, and work in our Cities and great Towns, and when they have gotten Money, transfer it beyond the Seas to their own Countries, not for want of a Regiſtry here.

Then he ſeems to wave the Opinion, that leſſening the Intereſt of Money may prove advantagious to Trade, and puts up a Query of his own, Whereby continuing the Intereſt of Money higher in this than in other Nations, it might not draw Forreign Coin into this Kingdom; which would prove of ill conſequence, every fifteen or ſixteen years the Lender exports the value of his Principal in Intereſt only, and hath his liberty to draw off his Principal at his pleaſure beſides.

The Author having thus premiſed, and ſo firmly, as he thinks, eſtabliſhed his Foundation, in pag. 9. begins to raiſe his Fabrick, and propoſes the Method of his Regiſtry to be, to make it a Law, *That all Perſons whatſoever, who have or ſhall have any Title or Incumbrance, that is chargeable upon any Eſtate Real, ſhall Regiſter the ſame by a day certain; or elſe the party neglecting to Regiſter ſuch his Title*

*or*

*or Incumbrance ſhall be concluded the ſame by all the ſubſequent Purchaſes, bona fide*; or to the like effect. The Author tells us a ſtory hitherto of a Regiſtry, which made my expectations great to ſee the Model of it: But now when I thought to have ſatisfied my ſelf with it, I find a very lame and impertinent Form like the Reaſons themſelves. However I will endeavour to ſupply his defects, as near as I can, according to his intent and meaning, which I doubt is for the advancement of the Authors own Trade, he ſeeming to be ſome ſmall Practiſer in the Law; (becauſe he quotes my Lord *Coke* in his firſt Inſtitutes) For he makes publick Proclamation, *That all perſons whatſoever, who have or ſhall have any Title or Incumbrance, that is chargeable upon any Eſtate Real*, &c. From whence may reaſonably be concluded, that all the Statutes, Judgements, Mortgages, Warranties, Grants, Leaſes, *&c.* and not yet vacated or cancelled, that have been made, acknowledged, ſuffered, entred into, or executed within memory of man, from or by any perſon or perſons, that either hath been, or is likely to be ſieſed, or poſſeſſed of any Lands or Tenements, muſt be Regiſtred by a day certain: Then may the Author ſay, as the Fly ſaid, that ſat on the Axis of the Charriot Wheel, running in a duſty way; *O what a duſt I make!* How many Incumbrances will here be Regiſtred, that otherwiſe never might have been ſet up, being (it may be) only given for collateral ſecurities, or it may be long ſince ſatisfied, but the witneſſes dead, and now muſt be compounded withal, before the owner can ſell or Mortgage his Land;

how many Searchers or Informers will now be prying into ſinking mens Eſtates, only to exaſperate their Creditos to fall upon them ? The inconveniencies, and ſad and lamentable effects of ſuch a diſcovery will neceſſarily produce an hundred injuries to the County Proprietors of Lands, to one that happens now when men are quiet in their Eſtates: *Or elſe the party neglecting to Regiſter ſuch his Title or Incumbrance to be concluded*, &c. By which the party himſelf, where, or howſoever diſpoſed or qualified, muſt Regiſter his claim or ſecurity, he expects to reap any benefit by : I hope alſo it is intended or expected, that the Cognuſor, or he or ſhe that executes ſuch Incumbrance or Title, muſt alſo be preſent, elſe it will lye wholly in the party (gaining thereby) his breaſt to enter what he pleaſeth: But you will anſwer me, that whatſoever is entred ſhall not make a bad conveyance good, *&c.* however it may diſparage a Title, and in caſe he that Enters or Regiſters it, may chuſe whether he will diſcover the Inſtrument it ſelf, whereby the Purchaſer will yet be left in doubt, whether there be reality in ſuch pretended Incumbrance or not: Therefore it is moſt for the ſecurity of all parties, that both Cognuſor or Grantor, and Cognuſee or Grantee be both preſent at the time of the Regiſtring thereof, to avoid all ſuch fallacious means, that otherwiſe will be daily uſed. Then ſhould the builder of this monſtrous Edifice have added, that the Regiſtry ſhould be kept in ſome Central place, or Shire-Town of of the County where the Lands lye that are concerned with ſuch Incumbrances: And that the Regiſter

giſter be a Perſon of Repute and Eſtate, and always preſent; and this would make the Regiſtry go down ſweetly like *Amesbury* Loches alive in a Glaſs of Wine; but the effects are like to be more dangerous, for methinks I already ſee a *Regiſtry* placed at *Eaſt Grinſted* for *Suſſex*, another at *Wincheſter* for *Hampſhire*, and another at *Salisbury* for *Wiltſhire*; and the poor old men and old women, riding from *Harting* to *Eaſt Grinſted* in *Suſſex*, near forty miles through the deep clay, after the rate of ten miles a day, with their Attorney or Sollicitor with them, at about forty ſhillings expence *per* day, to Regiſter a Mortgage for thirty or forty pound, which the poor Borrower had occaſion to take up of the Lender, to place out his young Son Apprentice, or to marry his Daughter; and when they come there, they muſt attend Mr. Regiſters leiſure to ſearch for former Incumbrances, and to make Entry of their preſent Mortgage; it may be the Regiſter may not be well, or not at home, or being a great Perſon not at leiſure, *Non vacat exiguis*, &c. But when it is done, away joggs home the joyful Mortgager, for that it coſt him but twelve or fourteen pound, out of his forty pound, and the Mortgagee glad that no other Mortgage preceded him in the Regiſtry, not regarding the cold dirty *December* or *January* Journey of the poor old Knave that borrowed the Money. In a few days after comes the two old Fathers, with their Son and Daughter, or the intended Truſtees out of Iſle of *Wight* towards *Wincheſter*, in the bluſtring weather (enough to cool the deſires of the moſt fond Lovers) for the Father of the Daughter will not

part with her portion, until he hath ſearched the Regiſtry for Incumbrances on the Father of the Son's Eſtate, and that ſettlement muſt be there alſo entred, and here muſt be ſome preſent made for expedition, there being about forty to be Regiſtred before this ſettlement; and our Clients in haſte to be gone, fearing the turn of the wind, and unwilling to protract ſo good a work, as they are about; then it may be muſt they lye wind-bound at *Southampton* four or five days, ere they can return, where perhaps theſe poor old Men had lived from their Nativity, and now to the hazard of their lives muſt be drawn ſo remote in ſuch weather, for the conveniency of a Regiſtry. In *Wiltſhire* I cannot but pity the poor Free-holders of landed men, in the North part of the County, that for the ſale of a Cottage or a Field, or mortgaging it for twenty or thirty pounds, muſt tranſit thoſe plains in the ſevereſt weather to the City of *New Sarum*: But more deplorable will it be for perſons that live in other Counties, it may be two hundred miles remote from their Eſtate, yet muſt theſe trot by Sea or Land to the very places where theſe Regiſters are kept, to mortgage or ſell their Eſtates: And highly will it concern the Nobility and Gentry of this Kingdom, they alſo being included amongſt the *All Perſons*, that are to make theſe long Journeys to theſe Regiſters upon the ſale, ſettling or ſecuring any part of their Eſtates: So that a Regiſtry in a County makes it much reſemble a Mannor, where all the Tenants of any Lands in that County, though diſperſed throughout the Kingdom; whether Lords

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or Gentlemen, Women Old or Young, are Suitors; for there is ſcarce any County but hath Lands in it, whoſe owners live in remote parts: In theſe intended great Mannors, the Regiſter is to be the Steward, and the Town where it is kept will prove the Demeaſnes; for thither will reſort all Counſellors, Attorneys, Solicitors and Scriveners, and take up their Habitations there, to the great encreaſe of the Trade of that place, and ruine of others: For it may rationally be conceived, that *Borrower* and *Lender*, or *Buyer* and *Seller* were better go to ſuch Town, where the Regiſtry is kept, and have their buſineſs done there, than be at the charge to hire a Counſellor or Solicitor to go with them.

But I hear it reported, that the Bill brought into Parliament, is for a Voluntary Regiſtry, that any perſon that hath any Incumbrance on any Eſtate may Regiſter the ſame; and if he doth not, then ſuch his Incumbrance or Title not to precede that of a Purchaſer, *&c.* A Voluntary Regiſtry is a needleſs thing, that I may Regiſter my Mortgage, *&c.* if I pleaſe, it being intended only as a Caution to the Purchaſer: What neceſſity is there then that I ſhould go to the Regiſter, when without being at that charge and trouble, I may affix my Title or Pretentions at the Church door of the Pariſh, where the Mortgager dwells, or the Eſtate lies, or a Poſt at the next Market Town, which will prove a ſufficient diſparagement to the Debtor, and caution to the Creditor, without the vain charge of travelling to a Regiſtry?

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Then our Author of the Reaſons for a Regiſtry, anſwers the two Objections of his own making: Firſt, the chargeableneſs of ſuch a Regiſtry: And Secondly, the publick expoſure of the private concerns of a Mans Eſtate by a contrivance, that only the Principal Heads of ſuch Deeds ſhould be extracted and Regiſtred, which opens a gap for frauds, and gives evil minded men occaſion to act thoſe things, that otherwiſe they never intended; for it is eaſie to frame two Deeds that may purport the ſame thing in the extract, yet in the main to have ſeveral ends and operations; if ſo, then I may pretend to Regiſter one, and when occaſion ſerves make uſe of the other; ſo that there can be no ſecurity in a Regiſtry, unleſs the whole Deed or Incumbrance be Regiſtred: Then what a vaſt charge willl this be to the whole City and Country, let any man judge?

For it is no ſufficient Anſwer to thoſe Objections, to ſay that you may as ſoon diſcover the Uſes of a *Fine* or *Recovery*, by finding them a Record, as diſcloſe the Uſes and Contents of Deeds, by finding it in the Regiſtry: The finding of a Fine or Recovery on Record, being no diſcovery of the Uſes of ſuch Fine or Recovery, and ſo no ſatisfaction to a Purchaſer, but rather begetting in him a doubt, whether ſuch Deed of Uſes ſhewn him, be the firſt Deed ſealed by the Cognuſor or Sufferer of the Recovery, that may poſſibly incumber the Eſtate; after the ſame manner will it be by ſuch a minute Regiſtry, where by finding only ſuch few Heads, which in time will

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ſhrink into ſo narrow a compaſs, that although the Grantor ſhew you the very Deed, out of which ſuch Notes were taken, yet may you doubt whether it be the very ſame, there being a poſſibility of another to have been made at the ſame time with other Covenants therein, not taken notice of by the haſty Regiſter, or not produced unto him.

Then may you reply, that the Regiſter may Sign ſuch Deed ſo Regiſtred, whereby to diſtinguiſh it from all others, that have not been Regiſtred, after the ſame manner as Deeds Inrolled are Superſcribed by the Officers there, which would prove the beſt expedient to prevent Frauds of this Nature: Yet is this way ſubject to the devices of crafty Men that may imitate ſuch Superſcriptions, which by the Regiſtring the whole Deed, may be prevented.

As to his reconciling thoſe difficulties, that attend the compelling of Perſons to Regiſter their Eſtates, that are not in a capacity to do it by reaſon of their Infancy, being beyond Seas, under Covert Baron, or of *non ſanæ Memoriæ*; he ſuppoſes that Infants have Guardians, and Perſons beyond the Seas have their Truſtees, that will take care of the concerns of ſuch, for whom they are Guardians or Truſtees; and ſeems to hint, that the multiplicity of ſufferers by fraudulent Titles, which a Regiſtry is ſuppoſed to prevent, exceeds the poſſibility of a temporary miſchief, that may fall on ſome few, when it is not difficult to make appear that thoſe

Perſons,

Perſons incapacitated by the Law to make their claims, are far more in number, and greater in quality, than thoſe that really ſuffer through concealed Titles or Incumbrances: And where Guardians, Truſtees, Huſbands or Friends have ſo great a Latitude given to Regiſter, or neglect it; any rational man may judge what the event will be.

And if men that have loſt their Evidences, ſhall have that priviledge to enter ſuch a Caveat in the Regiſtry, as the Author mentions, it ſhall then lye in the breſt of any envious or ignorant perſon (for ſuch there are, that think they have a Title to another mans Eſtate, when they have not) to diſparage any mans Title, when he is about to ſell the ſame: And if any one that hath really loſt his Deeds, neglect to enter ſuch Caveat, he ſhall for ever be debarred.

Then pag. 17. the ſaid Author ſtarts another Objection. *That if all men by vertue of a Regiſter could lend their Money upon real Security, no man would lend upon Perſonal: But this*, he ſays, *is not the Intereſt of the Nation, that the Credit of Tradeſmen, ſhould be greater than the Returns of their Trades.* Yet in the Preface, and the former part of his Book, nothing will ſerve his turn but a Regiſtry to promote the Trade of this Nation; and that Trade could not be compleatly advanced, but by a ſecure Fund for the raiſing of Money for a Trade; and that no other Fund would be but Lands, *&c.* But now, after many fruitleſs Arguments for a Regiſtry, it ends

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in this, that a Regiſtry will capacitate ill Husbands in the Country to borrow Money to waſte extravagantly, and encourage all monied men to lend their Moneys at Intereſt on Mortgages, rather than hazard it on the uncertain effects of Trade; and let Tradeſmen be content with what Moneys their Friends will be pleaſed to lend them, that they cannot otherwiſe diſpoſe of, and be content with the Trade of former times, when the Tradeſmen never wanted Credit to raiſe Money proportionable to the return of their Trades.

By the Trade of former times, I ſuppoſe he means, when the Intereſt of Money was at ten *per cent.* few men then would hazard their Money in Trade, when they could have ſo large Intereſt; nor few would buy Lands, unleſs at a very low rate. The great Wiſdom of our former Parliaments, perceiving the great inconveniencies ariſing from ſo high an Intereſt of Money, to the decay of Trade, and ſinking the prices of Lands, brought it to eight *per cent.* then to ſix *per cent.* which every one is ſenſible how great an advantage it hath been to Trade, and to every mans Inheritance; and rather than to encourage the lending of Money ſo much on Land Securities, it would be much more conducing to the advantage of the Trade of this Nation, and encreaſing the Real Value of the Lands thereof; if it may conſiſt with the pleaſure of His moſt Sacred Majeſty, and both Houſes of Parliament, rather to reduce the Intereſt of Money to five or four *per cent.* that it may prove more advantageous to any perſon to employ

his Money in the making of the Manufactures of this Kingdom, or in the expoſing them, than to accept of ſo low an Intereſt; for it is either the lowneſs of the Intereſt, or the want of Security for Money that advances Trade: therefore our deſigns of a Regiſtry miſtake the Cauſe: how then can they expect the effect ſhould be good?

Alſo the Deſigner himſelf confeſſeth, pag. 19. *That from hence it might happen, that Lands would not be ſo great a drug, if they might but eaſily and ſafely be transferred from one to another, becauſe many from the health and tranquillity of a Country life, wauld beſtow their Money and Time upon Lands, and the improvement thereof, who at preſent are forced to employ their effects in another Current*; and ſo would endeavour to make Lands magnetically to attract the Money from Trade into the Country-Gentlemans pockets, and yet pretends hereby to advance Trade, when rather by the lowneſs of Intereſt of Money, and dearneſs of Land, Men ſhould be encouraged to adventure their Money in Trade, with hopes of a good return, than to diſpoſe of it for ſmall advantage on Lands or Mortgages.

As to the Clamour of Innovation, it is not in this Caſe of ſo ſmall concern, as the ſaid Author ſeems to render it: For this would prove ſo great an Innovation, and ſtrike ſo deep, that it would make moſt of the Laws of *England*, that concern Property, ſhake, and diſturb the peace and quiet of of many thouſands of ſober and well-minded peo-

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ple throughout the Kindom; and would be beyond any Preſident, there being not any Statute that ever was yet made in *England*, that could beget ſo great a confuſion, as this neceſſarily muſt do; and cannot be compared to a new Medicine for a new Diſeaſe, where the Phyſician, as near as he can, gives nothing to his Patient, but what his Nature is able to bear, without danger of life, be the Diſeaſe what it will: But here is a Venomous Medicine prepared for ſo ſmall a Diſtemper, that it threatens not only an imperfect cure of that, but the generation of an univerſal indiſpoſition of the whole Body; neither can this Act be made, as ſeveral others have been, probationary for a time, that the inconveniencies may be diſcovered, and then to determine, if not judged meet to be continued, becauſe the greateſt charges, expences, inconveniences and evils will happen at the firſt, and many years will not diſcover the other grand diſadvantages that may happen from it.

But if the Wiſdom of His moſt Sacred Majeſty, and the Parliament of *England* ſhall judge it convenient to eſtabliſh in every Market Town in *England*, a Regiſtry for all perſonal Contracts, it might probably produce extraordinary good effects; the late Act againſt Frauds and Perjuries, will conduce much to the prevention of Suits and Controverſies: But this Regiſtry much more; for here may be Regiſtred in a Book kept for that purpoſe, all Bonds, Bills, Articles, Contracts and Agreements whatſoever, that concern the payments of Moneys, deli-

very of Goods, ſale of any Wares or Merchandiſe, or any other Bargains whatſoever that concern not Lands or Tenements; and here the Obligor and Obligee, and all other parties concerned, or bound by ſuch agreement, may Regiſter the ſame, and take an Abſtract or Copy, as they pleaſe, with them, for their own ſatisfaction, and on non-payment of the Money, or non-performance of ſuch Agreement, *&c.* The Regiſters Book produced, or a Copy under the Hand and Seal of the Regiſter, may be a good Evidence, which will prevent many Suits of Law, for it will be no advantage or credit for any one to defend a Suit at Law, where there is ſo great an evidence againſt him.

The expences will be but ſmall: for it will be no more charge to enter ſuch an Agreement in the Regiſtry, than it would have been to put it into writing at another place, the Regiſter being obliged to ſome certain Rule for his Fees.

The Journeys of the parties will be but ſhort, *viz.* to the next Market Town; and in caſe any be ſick or aged, they may ſign ſuch Obligation or Agreement, before ſufficient and credible Witneſſes, that are known to the Regiſter, that may in two or three days time repair to the Regiſter, and enter the ſame under their hands, who ſhall be obliged to juſtifie the truth of the ſame, when required.

Here is no danger of ſuch Obligation or Agree-

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ment to be loſt, the Regiſter or his Succeſſor being always ready to vouch the truth of the Book.

Executors may here diſcover what Bonds their Teſtators have entred into, and ſo may more eaſily ſatisfie their Debts in ſuch Order, as by the Law is required.

The Regiſter himſelf and his Deputy, may be elected by the Inhabitants of the Town, where ſuch Regiſtry is to be kept, and ought to be perſons inhabiting there, and of known integrity: the reaſon why there ought to be a Deputy, is, becauſe one or the other may be ſick, or on extraordinary occaſions abſent.

This Method of Regiſtring would prevent the greateſt part of the Suits of Law in the Kingdom, and no ill effects or conſequences can be imagined, to proceed from it, unleſs at the firſt it may prove a little troubleſome, until the people are acquainted with it: But the ſmall trouble that this way will produce, is not to be compared to the grand inconveniences that will proceed from the other; yet is it eaſier to be made appear, that the conveniences and advantages of this propoſed Method, ſhall much exceed what can be imagined to be produced by the other.

Now I have propoſed a Method for the prevention of Frauds, Suits and Controverſies about perſonal

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Contracts, &c. againſt which I hope no man can juſtly object: I ſhall offer my thoughts by what means other Frauds may be prevented in Real Eſtates, which are ſo much complained of by the aforeſaid Author:

It is not unuſual for a Man to Mortgage his Eſtate for a ſmall ſum of Money, in proportion to the value of his Eſtate; yet after that, in hopes of a ſupply by ſome means or other, to redeem his Eſtate, and unwilling to ſell it wholly, is willing to borrow another ſum on the ſame Security, or to ſecure ſome other debt that he owes; all which may not amount to the moiety of the value of his Eſtate; yet may ſuch a perſon Mortgage the equity of the redemption of his Eſtate, to ſuch third perſon, for the ſecurity of the ſecond ſum or debt, making him acquainted with the precedent Mortgage, without any breach of honeſty: But if ſuch perſons ſhall make a ſecond Mortgage or Sale of the ſame Eſtate to any, beſides the firſt Mortgagee without giving notice of the firſt Mortgage; then may it be enacted, that ſuch a perſon ſhall forfeit the value of the ſecond ſum, borrowed or received, as aforeſaid, or ſuffer impriſonment till ſatisfaction be made; and if it ſhall happen, that the Incumbrances on any Eſtate ſhall be ſecretly or voluntarily ſuffered, or executed by any perſon, to the value or more of ſuch Eſtate, whereby a Purchaſer ſhall be inforced out of ſuch Eſtate, or to compound for the ſame, he having no notice thereof at the time of ſuch Purchaſe, that then ſuch an

offence

offence to be Felony, and as great reaſon for it, as for Robbery, repreſenting or counterfeiting Cognuſors in Fines, or ſuch like.

And for that ſeveral perſons, that have Judgements, Statutes, or other Incumbrances on other perſons, that will touch, or concern their Eſtates, do keep the ſame ſecret, until ſuch time as the perſon hath ſold his Eſtate, and is dead or beyond Sea; and then ſet up ſuch Incumbrances againſt the Purchaſer, that knew nothing of it: therefore may there be an Act made to limit ſuch Incumbrances to a certain time, and wholly to exclude them, where they know, or had notice of ſuch Purchaſes, and would not come in before (perſons not capacitated to be excepted) which being done, would prevent moſt of thoſe few Frauds that are exerciſed on Real Eſtates, without that too often repeated way of a Regiſtry. Thus not doubting but that all Rational and Underſtanding Perſons will conclude, that thoſe Reaſons propoſed for a Regiſtry for Lands, are very lame and deficient, and that ſuch a Regiſtry would prove deſtructive to far more than it could be capable of relieving; and that notwithſtanding the ſpecious pretences of advancing the Trade of the Nation, yet that it cannot in any wiſe conduce thereunto, but rather the contrary, as hath been made appear.

And that the Regiſtry here propoſed, for the aſcertaining of all perſonal Contracts, and the preſerving them, muſt undoubtedly be of great uſe and ad-

advantage to Perſons of all Degrees and Profeſſions without any conſiderable inconveniencie.

It is now my Prayer, and I hope of many more, that God will put it into the Hearts of His moſt Sacred Majeſty, and both His Houſes of Parliament, ſeriouſly to conſider, the Peace, Tranquillity and Proſperity of the Subjects of this Kingdom, and eſtabliſh ſuch Laws that may conduce thereunto, of which none hath, nor I hope ever ſhall have reaſon to doubt.

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*Advertiſements of three Books, Printed for Tho. Burrel, at the Golden Ball, under St. Dunſtans Church in Fleet-ſtreet.* 1678.

1. *Villare Anglicum*: By Sir *Henry Spelman* Knight.
2. The Art of Gardening in three Books: Illuſtrated with Sculptures: By *John Worledge* Gent.
3. *Poor Robins Viſions*, ſetting forth the Humours and Vices of the preſent Times.

*Repertorium Canonicum*: By *John Godolphin*, LL, D. Sold by *C. Wilkinſon*, at the *Black-Boy in Fleet-ſtreet.*

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# VENN

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# MERMYDON

OR, THE

# Linen-Draper Capotted:

BEING A

Serious and Seasonable Advice

To the

# CITIZENS

OF

# *LONDON*,

Occasioned by the Indirect Practices used in the late ELECTION of SHERIFFS.

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Written by a Citizen of *London*.

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*LONDON*, Printed in the Year 1679.

BRITISH MUSEUM

# Serious and Seasonable ADVICE

## To the

## CITIZENS of *LONDON*, &c.

*Friends and Fellow-Citizens.*

THE End of these few Lines is to persuade Peace, which every man pretends to covet; but the end is not attainable without the use, means, and avoiding that which is of a contrary Importance. Some few things are here pointed at, which have occasioned disturbance in Families, hatred and animosity among Neighbours, disorders in the City, oppression and violence in the Nation. That such things may not happen amongst us any more, is the design of this Paper, and shall be the constant and hearty Prayers of the Author.

It behooves every good Citizen to have a watchful Eye toward such Persons and Actions as would cast Scorn and Contempt upon the meanest Instrument of Government. It is rare if any man be made desperate ly wicked at once. Evil is propagated by degrees. Hard thoughts of our Superiour, are often followed with Hatred, and after with Sedition and Rebellion, great things taking their rise from small and insensible beginnings. A Cloud of the bigness of a Hand, spreads the face of the Heavens. Thus a disobedient Servant proves a bad Master, and a worse Citizen. If we slacken

in the leaſt the Chain of our Duty, the Devil quickly takes advantage. Some men who at firſt deteſted Rebellion, have laughed and talked themſelves into Diſobedience, for which, perhaps, being worthily puniſhed, hath ſo exaſperated their minds, ſo as nothing wanted for revenge, but an opportunity. Others there be, whoſe great felicity lies in hearing and telling News: Theſe are a ſort of Buſie-bodies, and men for the moſt part, of ſmall imployment, and as little diſcretion, that receive all they hear (eſpecially ſuch things as will pleaſe their Party) without examining the probability of its being true or falſe; and having heard ſome odd Story, go (big with it) to the next Club, where it is related with abundance of formality; and if it be any thing relating to the Government, it is ten to one but ſome Surmiſe or ſad Deſcant, as bad as Malice can invent, is added over and above. A ready way to introduce a diſaffection toward thoſe in Authority, and prepare mens minds for Diſobedience and Rebellion: Therefore ſuch Malapert Talkers, who are always finding fault, and like Flies, are apt to dwell upon every Sore, ought to be Brow-beaten, ſcorned, and oppoſed by every honeſt Citizen, as the Bane of Society, and Peſts of the Commonwealth. Let us all endeavour to live like Men, and Chriſtians, and boldly reprove ſuch as offer to put Affronts and Contempts upon Authority: A far readier way to cure their itching Malady, than by taking pleaſure in their Fooleries and impertinencies. Let every man in his ſtation purſue thoſe things that make for PEACE. We are all Members of one City, Subjects of one Kingdom: all embarked in the ſame Veſſel, and if that ſuffers Shipwrack, none can promiſe immunity to themſelves. In a word, Let us *fear God, honour the King, and not meddle with thoſe that are given to change.*

There

There is alſo another ſort of men among us, ſo well conceited as to think themſelves fit to be ſharers in the Government, and are always complaining that ſomething is amiſs. Men of petulant teſty humours, and factious Spirits, never contented, never pleaſed. Is it not a ſhame to think what a fooliſh and ridiculous attempt was lately made to introduce an Officer among us? Did they fanſie the Government would be Trickt into a Sheriff? What was the Man? How qualified, that ſuch ſiniſter and undue practices were uſed about his Election? I believe but few men will beſpeak him Maſter of any extraordinary meaſure of Reaſon, Judgment or Piety. As for his Eſtate, that was granted deficient, even by his own Faction, as appears by their Subſcriptions towards the upholding of his Grandeur. Certainly *They have need of a Bird that give a Groat for an* OWL! What then? Why the truth is, though nothing can be more ridiculous than Empty Boldneſs, yet this mans confident and ſeditious ſpeaking, which made him obnoxious to the Law, hath advanced his Reputation with ſome men to an high rate, who otherwiſe might have paſſed along unobſerved. Is this an Office to be carried on with Contribution? Is it not one of the higheſt places of Truſt in this great City? Ought not he, whoever is Elected to that dignity, to be able to bear the charge without auxiliaries, as well for his own ſecurity as the Cities honour? For ſhould he fail in that particular, he muſt not onely be ruined, but the Office fall lame by the way. Yet this man, till he ſaw his Party confounded, offered without bluſhing to accept it. It is an Office of that Truſt, as ought to be committed to the care of none but perſons of known Integrity, Religion, and Honeſty, that in times of danger and diſorder, may keep the Peace, and not encourage Sedition and Tumult: one firm in his Allegiance to his

his Majeſty, and a true Proteſtant according to the Church of *England*. What deſign theſe men had in offering their purſes ſo freely toward ſetting up this Puppet Sheriff, God and their own hearts onely know; but certainly it hath an ill aſpect, for that during his Office he muſt have been Penſioner to the meaneſt Tradeſ-man of his Party. Some few Quakers afforded him their Votes, but their frugality and principles, I ſuppoſe, would hardly, allow them to club toward Feaſting or Fine Clothes. Whatſoever their end was, they are not to be approved, who ſeek to acquire good ends by bad means; and in this Eſſay they ſhewed the Popiſh party a new device (though they have already more tricks than are good) by Subſcriptions and Cabals to introduce ſome of their Favourites into places of Honour and Truſt.

Conſider the danger and inconvenience that ariſeth from the multitude of Pamphlets that are publiſhed every day, filled with Lies and Falſhood, to the diſhonour of God and Religion: containing baſe and unworthy reflections upon moſt men of the greateſt Authority in the Nation, not ſparing at ſome turns (though in cunning and canting terms) the Perſon and Government of his Sacred Majeſty. Are not all publick Actions turned into *Ridicule* by theſe petty Scriblers, who have hardly Bread to eat, but what they receive for their Weekly Copy? Do we not all know that not long ſince **Poor Robins Intelligence** was Weekly publiſhed, where the Author took upon him to make a *Laughing-ſtock* of any perſon, to whom he was prompted, either by money or malice, or to fill up an empty ſpace in his Pamphlet? And though he forbore to name the perſons, yet pointed at them by ſuch Notes and Characters, as they were eaſily known by any that were of the Neighbourhood, to the great diſturbance of

Families,

Familiés and breach of Charity among Citizens, till for abuſing a perſon of Honour, Authority took occaſion to chaſtize his inſolence by ſtopping the Preſs: which particulars, as to him, had been omitted, but that he, or ſuch another, hath, and ſtill doth take upon him to traduce and aſperſe the Juſtice of the Nation, in unworthy and unſeemly terms, not caring whether the matter be true or falſe, ſo it will help to ſell the Book. It is true the Lord Major hath taken ſome care about thoſe Pamphlets, but ſtill there remains a duty upon every private Citizen that may tend much to ſuppreſſing the miſchiefs thereby ariſing: for if in ſtead of reading them with delight and complacency, they and their Authors were diſcountenanced, it would contribute much to the quiet and tranquility of the City and Nation. Let each man obſerve this *decorum*, and for want of reward, thoſe that write them would ſoon be compelled to turn their Pens to ſome honeſter imployment. It is no ſmall trouble to men that are peaceably diſpoſed, to ſee how eagerly the multitude purſue thoſe miſchievous vanities which commonly the ſharper and more Satyrical they are againſt thoſe in place and authority, find the moſt ready and approved reception, though to ſpeak plain, it is a certain indication of a depraved conſtitution, when men are better pleaſed with things ſowre and crude, than with what affords wholeſom nutriment. And the youth of this City, with ſome others, who are but Children in Underſtanding, are as it were inſenſibly tainted with diſlike of the Government, by receiving thoſe ſeeds of Sedition which afterwards afford an Harveſt too plentiful, and upon every occaſion and opportunity is ready to break forth into open Rebellion againſt thoſe, whom by the Law of Nature and Religion they are bound to obey, eſteem, and honour.

For my own part I am as deeply ſenſible of the late horrid

horrid and damnable Plot againſt the perſon of his ſacred Majeſty, and the Proteſtant Religion as any man, and am verily perſuaded the King himſelf, and thoſe about him, are ſufficiently ſatisfied how induſtriouſly it hath been carried on, contrived, and fomented by the *Romiſh* Emiſſaries both at home and abroad. But withall, I do profeſs, I think it our greateſt prudence and duty to leave the proſecution of thoſe villanous Conſpirators to his Majeſty, and thoſe whom he is pleaſed to authorize for that purpoſe, and not for us to meddle with cenſuring their proceedings, either for Method, Place, or Time, but to reſt ſatisfied with what they ſhall think fit to do in the matter, leſt we be found among the number of thoſe who are *heady, high-minded, and ſpeak evil of dignities, and that would rob the King of his Diadem.* For what is it leſs, if we cry out that thoſe who ſit at the Helm are either ignorant, or abettors, or favourers of ſuch horrid deſigns; in the one caſe we preſume our ſelves fitter to govern than they; and in the other, we render them, ſo much as in us lies, odious to all men.

We all know the *Romaniſts* have been buſie ever ſince the Reformation, to make us again taſte of their Colocinths and Gourds, yet through the goodneſs of God, and the prudence of our Governours their moſt ſecret Plots have been diſcovered, their Deſigns baffled, and all their attempts proved the ruine of the Contrivers. Neither have they been yet ſo formidable, as to offer at any acts of open hoſtility, unleſs it can be ſaid they made the Presbyterians and Independents their Drudges in the late Times to do their work. And if ſo, when ever you ſee them again labouring at the ſame Oar, conclude they are ſtill ſerving the ends of the ſame Maſters, or ſetting up for themſelves. And here it will not be amiſs to conſider how things ſtand now,

and

and what motives were frequently used for introducing the late unnatural War. Did not the Factious of those Times seduce the people, by making them believe the late King, of blessed Memory, was inclined to Popery, or at least a favourer of it? Were not Fears and Jealousies the main Engines used by those bloody Miscreants to serve their turns? And is there not strong presumptions that the same things are endeavoured by the same sort of men to be acted over again? Is it not daily inculcated what danger we are in from the Papists, and many a dreadful Story told of Slavery, Popery, Tyranny, and Arbitrary Government, and God knows what? Does any man think that the Magistrates are swallowed up in a Supine Negligence? Hath his Majesty, think you, no care of us, nor of himself? Hath he not always with much fervor protested his adherence to the Protestant Religion? Did he not graciously offer the last Parliament to sign any Bill they should frame for security thereof after his decease? Is he then so zealous for its preservation after his death, and shall we imagine he will not protect us in the profession of it during his happy Reign? (which God long continue.) Away then with these Fears and Jealousies which are fomented by men of ambitious designs, turbulent spirits, and aspiring minds. Look upon them all as Tricks of the old Trade. Did his Majesty ever do any thing that looked like betraying us into Slavery? For Gods sake, Sirs, Consider whither we are going; let us not be undone again by the same methods we were before. Are there not some at this day that long to be fingering the Crown-Lands, and Bishops Revenues. Be not ensnared with their wicked Contrivances, and specious pretences; and let not us deny that to our Soveraign, which by the common suffrages of Christ and his Apostles was awarded to Heathen Emperours.

But it may be ſaid, we are yet in danger of being outwitted by the *Jeſuites* and their bloody Crew, and the late Plot is not yet over. It is true, we may yet be ſubject to ſome effects of their malice and fury. But we uſe to ſay, when a Diſtemper is once diſcovered, it is half cured. Have not we been hitherto delivered from thoſe Lions and Bears? They contrive, but God diſappoints; and if their plotting and deſigning, though it takes no effect, ſhall continually fill us with fears and jealouſies, how much more ſhould every man be filled with affrightment at the leaſt appearance of that ſpirit which ruled in the hearts of thoſe Children of Diſobedience in the beginning of our late troubles? Shall theſe men ſtill impoſe upon us ſuch dreadful apprehenſions of thoſe, whoſe deſigns have hitherto been blaſted, and muſt we be perſuaded that we are out of all danger from thoſe who have ſo far ſucceeded in their attempts, as to ſubvert a flouriſhing Kingdom, and overthrow both Religion and property? Perhaps if theſe things were well conſidered, we ſhould not be ſo eaſily Cajoled by them, whoſe great Cry is for Liberty, when indeed they mean nothing more than Anarchy and Confuſion; againſt Popery, while they mean Epiſcopacy; that while we are ſtaring at the *Romiſh Wolf*, we may be ſurprized by the *Northern Bear*.

We have had of late ſome Inſtances of Tumultuary Propoſals and Applications, that fell little ſhort of the old Story of *Venn* with his Mermydons, as his late Majeſty was pleaſed to expreſs it; which was onely an Eſſay of the ſtrength of that Party that caſt us formerly into Confuſion. But they were ſeaſonably checkt both by the authority and good affections of the City, to the Confuſion of their Hopes and Deſigns. Is not this like *Abſalom in the Gate?* Is not this the way to amuſe and fright men from their Trade and Buſineſs? and in effect

to

to cry, as of old, *To your Tents, O Israel?* It is a dangerous thing to affect Popularity, and to talk of Papists in Masquerade. But unless we had better marks whereby to distinguish those sort of men, it can onely serve as an odious term to be fixt upon whom himself and his Party pleases; and when time serves, expose them to the fury of an untutoured Zeal, and to be used as Malignant, Delinquent and Popishly affected, were of late; which had no other effect, but sequestring the Estates, and ruining the Families of persons so stigmatized; though indeed they onely were the true Lovers of the Protestant Religion, their King, and Country. We are not to account a Vote of the House of Commons to have the Authority of a Law, (as some would have a late Vote to be,) when as (the Parliament being dissolved) it signifies just nothing as to the matter of Law, though it was an honest and excellent testimony of their Zeal for the preservation of his Majesties person, and the Protestant Religion; for which the whole Nation is bound to give them thanks, but I hope we shall never live to see a Vote, no nor an Ordinance neither, pass for a Law; and I believe this did not speak the sense of the House: and as little did the late out-cry speak the sense of the City, as appears in this, that there are not ten men to be found that will own the action. Beside that, the Faction was over-born by a majority of honest men.

I have no purpose to reflect upon any mans person. My design is onely to caution my Fellow-Citizens, not to have a hand in any action that looks like Faction and Disorder, for from little sparks, many times, are kindled mighty flames: and *Solomon* bids us, *Shun the appearance of evil.*

Frailty and Imperfection is justly inscribed on all things sublunary. Yet if we could suppose a System of

Rules and Laws infallible, even this could not free the Government from miſcarriages, it being morally impoſſible among ſuch a multitude of ſubordinate Officers (of neceſſity to be uſed) that all ſhould be furniſhed with Wiſdom and Integrity ſufficient for diſcharge of their duty, ſo that there will always be cauſe of complaint, but no man can ſay, that ſuch things will diſcharge the Subjects from their duty. As to the Conſtitution of our Government, it hath been reckoned the beſt in the World; and for the Adminiſtration, I dare appeal to any man, whether there is not more rigour and ſeverity, heavier Taxes and Impoſitions laid upon the People in the moſt flouriſhing Chriſtian Kingdom in the World, by three parts in four, than ever we have yet met with, unleſs in the late Times of Defection. Is any thing impoſed upon us (which to remedy) will make amends for Tumult and Diſorder, or any danger threatned, or like to befall us, that can equal the miſchief and inconvenience of a Civil War. Conſider this, Fellow-Citizens, and let not ambitious men purchaſe their advancement with the price of your Bloud and Treaſure. They may contrive with their heads till their hearts ake, but without help of your hands, all their project will fall to the ground. I beſeech you therefore ſtand faſt in your duty to God, allegiance to the King and the Government eſtabliſhed by Law. To the firſt you are obliged by Nature and Religion; to the ſecond, by Religion and Oath; to the laſt, by Prudence and Intereſt.

It may be ſaid by the Diſſenters from the *Church of England*, that they are willing to obey his Majeſty, and obſerve the Law in all Civil Matters, but in Eccleſiaſtical Affairs, and Epiſcopacy, they will not, they cannot yield obedience. My buſineſs is not to diſpute the point, but to perſuade to peace, and to warn you of ſuch men as are like to diſturb it. Let it be conſidered that

Epiſco-

Epiſcopacy hath received the ſame Civil Sanction with thoſe Laws that concern Liberty and Property. It is adapted into the Conſtitution of the Government. Would they have his Majeſty aboliſh Epiſcopacy by his own power? Surely this would be to exalt Prerogative with a witneſs; and (as themſelves would ſay in other caſes) contrary to *Magna Charta*. If not, let them ceaſe their murmurs, till ſome Parliament comes that will pull down that, and ſet up a better, if they can tell where to find it. I confeſs if any man purely out of conſcience refuſeth to Conform, and the Laws againſt it rigorouſly executed, his Circumſtances are hard. But is that our Caſe? Is not every man ſuffered to be as good as he will? Doth not the clemency of our King admit every man to hear and preach where they pleaſe? to follow their own Paſtors, and their own Diſcipline? And after all this, do you hear men cry out againſt the Government, the Biſhops, and the Clergy, men of honour and dignity in the Church, perſons againſt whom they have no exceptions, but their Office and Revenues, perſecuting them with the moſt vile and unſavoury Language their malice can invent. And is this out of Conſcience too? Can any man think he that ſhuns a Surplice, but can eaſily ſwallow a Lie, that exclaims againſt the Common-Prayer, yet is full of Envy, and hatred, is uncharitable to his Neighbour, and conſtantly repleniſhed with ſcurrilous and immoral expreſſions againſt every one that treads not in his path: that this is the effect of a *Tender Conſcience*. Fly then the Society of this ſort of men, for whatſoever their ſpecious pretences may be; their thirſt is after Domination and Plunder. Thoſe that trampled upon the Mitre overthrew the Crown, Monarchy and Epiſcopacy both fell by the ſame hand: therefore it is not amiſs to mind you once more of *Solomons* advice, *Fear God*, *Honour the King*,

*King, and meddle not with thoſe that are given to change.*

When you reflect upon the Methods taken in the beginning of the late Wars by an ill-ſpirited ſort of men, whoſe delight was in Diſorder, and aimed at gainful Fiſhing, if they could but once trouble the Waters, that their firſt endeavour was to raiſe a diſlike againſt the Perſon and Government of the beſt of Kings, and how the Grand Engineers ſtirred up the Citizens and Apprentices to popular Tumults, whereby his Majeſty was invaded, and through fear and force, baniſhed from his Palaces, Cities, his Conſort, his Royal Children and Family, and at laſt himſelf moſt barbarouſly murthered. What contrivance, and by whom carried on? Broils raiſed in *Scotland*, the better to diſtreſs his Majeſty, and after all this and much more, not to be mentioned without the extreameſt horror and deteſtation; How the Actors thereof were unmasked, their perſons and deſigns diſcovered, their ſeveral Governments under their moſt politick Eſtabliſhment ſhaken to pieces as frequently as formed, and at laſt both the one and the other, not by humane prudence, but by the meer hand of God, deſtroyed and confounded. In all which mutations this City felt moſt conſtant pains and afflictions; and the whole Nation, after all the vaſt expence of Blood and Treaſure, had purchaſed to themſelves, nothing but Chains and Fetters. When, I ſay, you reflect upon theſe things, it muſt needs excite your ſingular care to preſerve your ſelves from a ſubjection to the deſigns of ſuch men, as may have hopes to lead us again into the like Defection and Inconvenience, and to be afraid of any thing that hath a tendency that way.

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